federal register

TUESDAY, SEPTEMBER 4, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 170

Pages 23765–23922

PART I

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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REMINDERS

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

page no. and date

SEPTEMBER 4

FDA—Incidental additives; exemptions from labeling requirements..... 20704; 8–2–73

federal register

Area Code 202 Phone 523–5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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List of CFR Parts Affected

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1973 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the issuance date and price of revised volumes of the Code of Federal Regulations issued to date during 1973. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1973):

Title	Price
1	$0.55
2 [Reserved]	
3	2.60
3A 1972 Compilation	2.50
4	1.75
5	3.75
6 (Rev. Feb. 1, 1973)	4.25
7 Parts:	
0–45	6.50
46–51	2.60
52	4.20
53–209	7.00
210–699	5.25
700–749	3.75
750–899	2.10
900–944	4.00
945–980	2.25
981–999	2.25
1000–1059	4.00
1060–1119	4.00
1120–1199	3.00
1200–1499	4.25
1500–end	6.50
8	1.85
9	5.00
10	4.00
11	.75
12 Parts:	
1–299	5.50
300–end	6.25
13	3.00
14 Parts:	
1–59	6.50
60–199	6.75
200–end	7.75
15	4.00
16 Parts:	
0–149	7.00
150–end	4.25
General Index	3.75

CFR Unit (Rev. as of April 1, 1973):

Title	Price
17	$5.50
18 Parts:	
1–149	4.00
150–end	4.00
19	5.00
20 Parts:	
01–399	2.25
400–end	7.00
21 Parts:	
1–9	2.25
10–129	5.50
130–140	3.00
141–169	5.50
170–299	2.25
300–end	1.50
22	4.25
23 (Rev. June 20, 1973)	1.50
24	6.50
25	3.75
26 Parts:	
1 (§§ 1.0–1–1.300)	9.75
1 (§§ 1.301–1.400)	2.50
1 (§§ 1.401–1.500)	3.00
1 (§§ 1.501–1.640)	3.75
1 (§§ 1.641–1.850)	4.00
1 (§§ 1.851–1.1200)	4.50
1 (§ 1.1201–end)	6.50
2–29	2.75
30–39	3.00
40–169	4.75
170–299	6.75
300–499	3.00
500–599	3.50
600–end	1.50
27	1.25

CFR Unit (Rev. as of July 1, 1973):

Title	Price
32 Parts:	
400–589	4.50
590–699	2.05
1400–1599	3.25
37	1.75

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 991—HOPS OF DOMESTIC PRODUCTION

Expenses and Rate of Assessment for 1973–74 Marketing Year

Notice of proposed expenses of the Hop Administrative Committee, and rate of assessment, for the 1973–74 marketing year was published in the August 15, 1973, issue of the FEDERAL REGISTER (38 FR 22040). This action is pursuant to §§ 991.55 and 991.56 of Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production. The amended order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. None were submitted.

The proposal was based on a unanimous recommendation of the Hop Administrative Committee. Expenses of the Committee for the 1973–74 marketing year were proposed at $175,245. The assessment rate was proposed at 0.3 cent per pound of salable hops handled by each handler during the 1973–74 marketing year.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Hop Administrative Committee, and other available information, it is found that the expenses of the Hop Administrative Committee and rate of assessment for the marketing year beginning August 1, 1973, shall be as follows:

§ 991.308 Expenses of the Hop Administrative Committee and rate of assessment for the 1973–74 marketing year.

(a) *Expenses.*—Expenses in the amount of $175,245 are reasonable and likely to be incurred by the Hop Administrative Committee during the marketing year beginning August 1, 1973, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.*—The rate of assessment for said marketing year, payable by each handler in accordance with § 991.56, is fixed at 0.3 cent per pound of salable hops.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of the amended marketing order require that the rate of assessment fixed for a particular marketing year shall be applicable to all salable hops handled during such year; and (2) the current marketing year began on August 1, 1973, and the rate of assessment herein fixed will automatically apply to all such hops beginning with that date.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated August 29, 1973.

CHARLES R. BRADER,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.73–18671 Filed 8–31–73;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Changes in Rates

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), and for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country, Part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

§ 201.51 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

Federal Reserve Bank of—	Rate	Effective
Boston	7½	Aug. 23, 1973
New York	7½	Aug. 14, 1973
Philadelphia	7½	Do.
Cleveland	7½	Do.
Richmond	7½	Do.
Atlanta	7½	Aug. 16, 1973
Chicago	7½	Aug. 14, 1973
St. Louis	7½	Do.
Minneapolis	7½	Do.
Kansas City	7½	Do.
Dallas	7½	Do.
San Francisco	7½	Do.

§ 201.52 Advances to member banks under section 10(b).

The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

Federal Reserve Bank of—	Rate	Effective
Boston	8	Aug. 23, 1973
New York	8	Aug. 14, 1973
Philadelphia	8	Do.
Cleveland	8	Do.
Richmond	8	Do.
Atlanta	8	Aug. 16, 1973
Chicago	8	Aug. 14, 1973
St. Louis	8	Do.
Minneapolis	8	Do.
Kansas City	8	Do.
Dallas	8	Do.
San Francisco	8	Do.

3. Section 201.53 is amended to read as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

Federal Reserve Bank of—	Rate	Effective
Boston[1]	9½	Aug. 23, 1973
New York	9½	Aug. 14, 1973
Philadelphia	9½	Do.
Cleveland	9½	Do.
Richmond[1]	9½	Do.
Atlanta[1]	9½	Aug. 16, 1973
Chicago[1]	9½	Aug. 14, 1973
St. Louis[1]	9½	Do.
Minneapolis[1]	9½	Do.
Kansas City[1]	9½	Do.
Dallas[1]	9½	Do.
San Francisco	9½	Do.

[1] A rate of 7½ percent was approved, effective on the indicated dates on advances to nonmember banks, to be applicable in special circumstances resulting from implementation of changes in Regulation J (see 37 FR 12714).

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357.)

By order of the Board of Governors, August 23, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73–18486 Filed 8–31–73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER–819; Docket No. 25594; Amdt. 16]

PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Minimum Rates for Certain Foreign and Overseas Air Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

On June 5, 1973, by notice of proposed rulemaking EDR–249/PSDR–35 (38 FR 15368), the Board proposed to amend Parts 288 and 399 of the Economic Regulations (14 CFR Parts 288 and 399) by establishing new minimum rates applicable to certain foreign and overseas air transportation services performed by air carriers for the Department of Defense on and after July 1, 1972. The Notice also dealt with requests filed by several carriers for the amendment of the rates effective July 1, 1972 and for the equalization of the cargo rates for short-range aircraft operating in the Pacific interisland service. In addition, the Notice included the Department of Defense's request that the rate for large jet aircraft be made applicable to services performed with wide-bodied equipment. The Board also proposed provisions providing for the establishment of interim final rates effective on or after July 1, 1973, pending the completion of a full-scale MAC rate review and the establishment of final rates to be effective on a prospective basis.

Comments were filed by DOD, 11 carriers jointly[1] and 4 carriers separately.[2] All comments and supporting materials before the Board have been carefully considered, and all contentions not otherwise disposed of herein are rejected. Final amendments to Part 399 are being adopted concurrently herewith.

The comments filed by the joint carriers and by Northwest support the proposed 2.5-percent increase in minimum rates for fiscal year 1973. DOD objects to the proposal on various legal, policy, and factual bases. DOD takes issue with the cost data relied upon in EDR–249 and contends that the carriers made a substantial profit from MAC business in 1972, even though it was below the goal announced, and that a retroactive rate increase is not justified. DOD further argues that the reason the Board proposed retroactive increases was that it made an error in judgment in establishing the minimum rates for that period in ER–786, and that the Board's authority to alter final decisions is limited to ministerial acts to correct factual or clerical mistakes and does not extend to correction of errors of judgment.

DOD's contentions as to the cost data are dealt with elsewhere herein. Suffice it to say here that we find that the adjusted costs upon which we rely justify the rates we are adopting both for the retroactive and the interim final rate periods.

We do not accept DOD's argument that the Board has no authority to alter rates retroactively to correct errors of fact. We would agree that amending rates retroactively merely on the basis of a review and finding that the return on investment was either greater or less than that predicted when the rates were set would be unjustified. However, that is not the case here. As we stated in EDR–249, the carriers brought to our attention in early 1973 specific errors made in establishing the fiscal 1973 rates in ER–786. In our opinion, the Board not only has the authority but also the duty to correct its error, whether the resulting change increased or decreased the rates retroactively.

DOD claims that a cursory analysis of the Part 243 data discloses ambiguities and even blatant reporting errors.

[1] Airlift International, Inc., Capitol International Airways, Inc., Eastern Air Lines, Inc., The Flying Tiger Line, Inc., Overseas National Airways, Inc., Pan American World Airways, Inc., Seaboard World Airlines, Inc., Saturn Airways, Inc., Trans International Airlines, Inc., Trans World Airlines, Inc., and World Airways, Inc.

[2] Northwest Airlines, Inc., Trans World Airlines, Inc., Saturn Airways, Inc., and World Airways, Inc.

While we recognize there are certain problems in the Form 243 reports, we believe that, on the whole, the reports are sufficiently reliable for the purposes for which they are being used herein as to trend indications and short-term interim rate determination. Moreover, we have made the necessary revisions to the data relied on in ER–249 where discrepancies were noted and verified. For example, as a result of recent Board audits, Saturn's Form 243 reports were found to be unreliable for ratemaking purposes, and we have removed them from consideration in the instant rate determinations.

Further, DOD cites several instances in which the Form 243 reports filed by the supplemental carriers are said to be in error, as follows:

(a) DOD points out that total revenue miles flown in MAC services do not coincide on the Form 41 and Form 243 reports. For Form 41 reporting purposes, empty backhaul miles are classified as nonrevenue, whereas for Form 243 reports such backhaul miles, which are part of the MAC services rate base, are treated as revenue miles. However, this inconsistency is of no relevance for purposes of this proceeding and the mileage basis used in computing the costs of MAC services match such costs and are adequate for these purposes.

(b) DOD claims some of the carriers' reports showed incorrect revenues and in connection therewith the Board has incorrectly computed the revenues in EDR–249. We have reviewed the alleged discrepancies and where errors were verified, we have made corrections in our analyses as set forth in the appendices hereto. The difference between the revenues computed under EDR–249 and those computed by DOD relate to DOD's inclusion of the commercial backhaul revenues. We had excluded such revenues, and in light of DOD's comments, we have now deleted the applicable expenses, which we consider the proper treatment of this item.

(c) DOD charges that there are inconsistencies in reporting and allocations. With the exception of Saturn Airways, which our audits have disclosed to be unreliable for rate purposes and which we have excluded from consideration in the data base for both the retroactive and interim rates, the carriers' cost assignments were found to be in conformance with their allocation statements on file with the Board.

Many of the discrepancies, e.g., failure of the revenue miles to coincide as between Form 243 and Form 41, errors in reporting revenues, aircraft day assignments and cost fluctuations, pointed out by DOD, have no effect on the analyses or the conclusions drawn therefrom here or in EDR–249. Moreover, we find that since the last amendment to Part 243 (effective January 1, 1972), the reporting thereunder has improved considerably and is reasonable acceptable for the purposes for which it is being used herein.

DOD also claims that the scheduled carriers' investment per aircraft mile flown in MAC operations during calendar 1972[3] increased 71.8 percent over the investment per mile recognized in ER–786. DOD also points out that the same carriers' aircraft hourly utilization declined by 12 percent. DOD implies that the investment per mile should have declined and that MAC services are being burdened with excessive investment. DOD's assertions warrant comment from several standpoints.

Both percentages developed by DOD appear to be incorrect.[4] Moreover, DOD inexplicably omits the data for two other scheduled combination carriers, namely American and Continental, from its analysis. Appendix H[4a] sets forth investment per mile and hourly utilization data for each of the scheduled combination carriers participating in the MAC long-range services in fiscal year 1973. For carriers as a group, investment per mile in 1972 rose by only 13.9 percent over the level recognized for rate purposes in ER–786. Hourly utilization declined by 13.6 percent. However, these comparisons to ER–786 are somewhat misleading taken by themselves. The fact of the matter is that the MAC services actually performed in 1972 were substantially smaller in terms of miles flown than we projected in ER–786. The same is true with respect to the amount of investment allocated to these MAC services. The 13.6-percent drop in aircraft utilization in MAC services is reflective of the relatively high levels of hourly utilization on which the ER–786 rates were based, and those levels were in turn patterned after the high utilization rates achieved in earlier periods of high activity in MAC charters. It is clear that the substantial contraction of these operations is one of the factors underlying the rising unit cost trend and the carriers' less than satisfactory earnings' results.

The question presented is whether the 1972 investment and utilization experience of the carriers, as reported on Form 243 and on which we relied in EDR–249, is reasonable; not whether the departures from the estimates employed in ER–786 are unreasonable. We have reviewed the procedures employed by the carriers in allocating investment to their MAC operations and we conclude they are generally reasonable and do not unfairly burden the MAC services. As set out in Appendix H,[4a] the reported utilization during 1972 for these carriers in MAC services averaged 9.67 hours per day. With only one exception, Trans World's passenger services, aircraft utilization in MAC services exceeded that for the same aircraft type in commercial operations for each carrier, and by more than an hour per day on the average. Therefore, on the basis of the individual carrier and the collective utilizations reported for MAC and commercial operations, we conclude that the reported aircraft utilization in MAC services is reasonable and does not burden the costs reported for MAC services performed in 1972. We also note that our adjustment of the rates for fiscal year 1973 is conservative in relation to the unit cost and earnings' indicia used and, therefore, would not be affected in any event by any minor overstatement of investment or understatement of aircraft utilization.

For purposes of the future interim rate, it is appropriate to omit from the analysis data for American, Braniff, Continental, and United which will not be in the program. Northwest's 1972 experience should also be disregarded since its overall operations were affected by a strike during that period. As shown in Appendix H,[4a] the remaining carriers' investment per mile rose by 23 percent over the ER–786 level while hourly utilization for the group declined by 17.8 percent. The rise in investment per mile closely parallels the drop in hourly utilization. The latter, as noted above, reflects the level of utilization generally prevailing in 1972 and is 9.5 percent higher in the MAC operations than in commercial services. Such utilization is reasonable for purposes of the interim rate herein prescribed. In-depth analysis of this element can be pursued in the forthcoming full-scale rate review.

Finally, DOD claims that the Board has set the minimum rates at a level that will be profitable to the least common denominator in the industry, namely Pan American, alleged by DOD to be a high-cost, inefficient carrier. We do not agree that the Board's approach to these class rates produces unreasonable rates. In the first place, each carrier's reported costs have been screened and reduced in the same proportion as they were adjusted in ER–786. Pan American's resulting direct aircraft operating costs per mile for the year ended March 31, 1973, are below the average of such costs for the carriers operating the same type of aircraft as shown in Appendix G.[4a] Moreover, the present rate is not set to provide the standard rate of return on investment to the highest cost carrier and, indeed, in Pan American's case, the forecast return was 5.99 percent. The carrier's actual return was 0.73 percent for the year ended December 31, 1972. On the basis of the interim future rates established herein, Pan American's return on investment in that period would have been only 3.77 percent. It has been the Board's policy to set MAC minimum rates on the basis of the composite costs of the group or class which gives weight

[3] As reported on Form 243.

[4] The data relied on by MAC purporting to come from the Form 243 reports do not reconcile with the information we developed in Appendix H. For example, in the case of Pan American (PAX), MAC shows an investment per mile for calendar year 1972 of $4.49 while our calculations show $3.09. A comparison of utilization for the same carrier and period shows MAC at 9.5 hours while we compute 9.7. Similar unexplainable discrepancies exist for the remaining carriers included in the analysis. However, while the investment-per-mile results obtained reflect wide variations producting a significantly lower group change in our computations, the utilization comparisons have minor differences.

[4a] Filed as part of the original document.

to both the higher and lower cost carriers. On the basis of the foregoing, we are not pursuaded that Pan American's current MAC results are either distortive or should be excluded in the rate determination.

RATES FOR THE PERIOD FROM JULY 1, 1972

In accordance with the foregoing, we have modified the data relied on in EDR–249 to eliminate Saturn's figures, to correct for known reporting errors, to adjust the computed revenues to include the mileage absorption so as to reflect MAC pay miles rather than the reported as-flown miles, (omitted in EDR–249) to remove the expenses applicable to commercial backhauls, and to reflect recent carrier revisions of 243 data[5] submitted after issuance of EDR–249. On the basis of the revised data as shown in Appendix B,[5a] a revenue increase of 5.88 percent would have been necessary to produce a return on investment of 9.37 percent for 1972, the ratemaking standard, instead of the 6.60 percent actually achieved. A revenue increase of 5.42 percent would have been required to produce the same return as experienced in fiscal year 1972. Most significant is the fact that the carriers' aggregate plane-mile costs increased by 5.78 percent in calendar year 1972 over fiscal year 1972, on an adjusted basis. On the basis of the foregoing adjusted data, the Board concludes that the 2.5-percent increase in minimum rates applicable from July 1, 1972, forward, is not excessive and is fully justified.

INTERIM FINAL RATES FOR FISCAL YEAR 1974

Both DOD and the carriers support, in principle at least, the interim rate concept, although DOD contends there is no factual basis for a rate increase at this time pending a general review of its MAC minimum rates.[6] The problems raised by DOD with the carrier data relied upon by the Board in EDR–249 have already been considered in this statement, and appropriate modifications of that data have been made. Our conclusions with respect to interim future rates are based on the modified information.

DOD also contends that those carriers who have chosen not to seek MAC contracts in FY 1974 should be eliminated from the rate considerations herein. DOD has a valid point with respect to the interim final rate determination on and after July 1, 1973. Therefore, we have removed from our analyses all of the carriers who have indicated that they will not participate in MAC contracts for FY 1974.[7] Northwest desires that the proposed amendments be adopted immediately, but wants the Board to base the rate on available data as of March 31, 1973, rather than December 31, 1972. We agree that the interim rate findings should be based on the latest available information and have revised our findings herein to reflect the carriers' results reported for the year ended March 31, 1973.

The joint carriers, and World with respect to the B–727 aircraft, desire the initial interim rate to be effective only until August 31, 1973, to permit the determination of a second interim rate to be effective September 1, 1973. We have decided not to place an expiration date on the interim final rate. With the base period advanced to March 31, 1973, there is little additional information that would be available between now and September 1. We will, however, continue to monitor recurring reports as well as data submitted in conjunction with the rate review and act expeditiously if further interim rate adjustments are in order. Moreover, there is nothing to prevent the filing of a petition for modification of these interim rates.

Trans World agrees to the interim rate approach but does not want the Board to rule out retroactive increases. Trans World fears that the carriers would not be adequately compensated during a period of significant cost escalation. The Board has decided to adopt the proposed policy. We believe the interim rate approach should be sufficiently responsive to changed circumstance to obviate retroactive rate adjustments except in the most extreme situations.

In EDR–249, the Board proposed an automatic adjustment factor for changes in the price of fuel purchased by the carriers from military services. The joint carriers and World, while supporting this feature, request that it be extended to commercial fuel as well. In our opinion, an automatic commercial fuel price adjustment is not feasible. Each carrier has different suppliers with various rates which differ greatly from MAC fuel purchases where the price and supplier is the same for all the carriers. Nor do we find acceptable the carriers' alternative proposal to apply a multiplier to the MAC fuel price adjustment, since the rates and timing of the price changes could vary significantly as between commercial and MAC-supplied fuels.

After making the necessary corrections to adjust the computed revenues for mileage absorption to reflect pay miles rather than as-flown miles (omitted in EDR–249), to eliminate Saturn and those carriers who will not participate in fiscal year 1974, to adjust the operating expenses to eliminate costs applicable to commercial backhaul revenue and to adjust for recent carrier revisions of Part 243 data,[8] the reasonable interim rates for the carriers' MAC operations are as follows:

(1) For the year ended March 31, 1973 in long-range operations the carriers earned a return of 8.10 percent as compared to a recognized return of 9.90 percent as computed in Appendix B.[8a] This would require an increase in the rates of 3.22 percent over those provided for in ER–786 to give the carriers an opportunity to realize the fair return on investment under the Board's ratemaking standards.

(2) In the short-range Pacific-interisland operation for the year ended March 31, 1973, with Airlift removed and with the equalization of the L–100 rates at the current level for the B–727 the return for the year ending March 31, 1973 would have been only 3.08 percent. However, because of the change in carriers' participation in fiscal year 1974, the 2.5-percent increase ordered for FY 1973 will be continued for interim final rate purposes.

(3) The rate of return for the "all other" short-range operations for the year ending March 31, 1973, excluding Braniff and Trans International, was a negative 2.55 percent, well below that recognized as fair and reasonable for these services. However, because of changes in the carriers who will participate in the "all other" short-range operation for FY 1974, the 2.5-percent increase ordered for fiscal year 1973 will be continued for interim final rate purposes.

(4) The above increases do not cover the effects of devaluation of the U.S. dollar nor the increase in military fuel prices which already have taken place since March 1973. Based on reported results for the year ended March 31, 1973, we have computed the effects of devaluation as being .624 percent in the long-range category and 2.982 percent for the short-range Pacific-interisland category as shown in Appendix A. For the April 1, 1973 increase in the price for fuel purchased from the military, the interim rates effective July 1, 1973, should be increased .386 percent for the long range, .465 percent for the short range Pacific-Interisland and .443 percent for the short range "all other" as shown in Appendix

[5] Continental, ONA, Southern, and TIA submitted revisions to investment data reported on Form 243, Schedule D–1. ONA and TIA also furnished revisions to revenue and expense data previously reported on Schedule D–2. World modified certain maintenance expenses reported on Schedule D–2. The appendixes reflect these corrections.

[6] The joint carriers and World request that a detailed expedited review be initiated immediately. It is our expressed intent to commence a complete MAC rate review as soon as practical; and, toward that end, an information request is already in the final stages of preparation.

[7] However, we disagree with DOD's suggestion to eliminate these same carriers with respect to our FY 1973 analyses (based on results for fiscal year 1972 and the year ending December 31, 1972) since such carriers performed contract services for MAC during fiscal year 1973.

[8] Footnote 5, *supra*.

[8a] Filed as part of the original document.

J. These resulting rates are subject to the automatic fuel price clause for further price changes.

The above results compared with those set forth in EDR-249 are tabulated below:

PROPOSED INTERIM FINAL RATE ADJUSTMENTS—INCREASES IN RATES SET BY ER-786

[In percent]

	Return on investment	Devaluation	Fuel increase	Total
EDR-249:				
Long range	3.658	0.630	0.330	4.670
Short range:				
Pacific interisland		2.637	.411	3.048
All other	2.500		.304	2.804
Final:				
Long range	3.223	.624	.383	4.233
Short range:				
Pacific interisland	2.500	2.082	.465	5.047
All other	2.500		.433	2.943

PRICE STABILIZATION

We find that the increases adopted herein are consistent with the goals of Phases II, III, and IV of the price stabilization program for the respective periods of applicability.

DOD has questioned whether rate increases may be effective for the freeze period June 13 through August 12, 1973, which included prices in foreign as well as interstate and overseas air transportation. We note that the Council permitted retroactive increases in Logair and Quicktrans rates for the 1971 Phase I freeze period by letter dated June 14, 1972. The Board has requested a ruling from the Cost of Living Council as to whether its previous ruling is applicable to the Phase III price freeze. For the present, the rates adopted herein will not apply during the freeze period, but are subject to adjustment if the ruling permits.

OTHER MATTERS

EDR-249 proposed to equalize the minimum international rates for L-100 and B-727. DOD contends that it presently has no contract or plan to use L-100 aircraft in international services during fiscal year 1974 and that Southern has withdrawn its L-100 aircraft from MAC international services. Southern's withdrawal of the L-100 equipment does not preclude us from equalizing the rate. It was the previous omission of the L-100/B-727 rate equalization which led to MAC's contracting a large part of its Pacific-interisland expansion service to Southern, which brought about World's petition for equalizing the rates. Inclusion of the instant equalization will prevent this from recurring; and, if not necessary, it would cause no inconvenience to DOD or the carriers.

Saturn requests that the ACL on the L-100 be increased from 20.7 tons to 23 tons. A review of the L-100 traffic data for the first quarter of 1973 revealed that the average actual planeload was 15 tons which is well below the current 20.7 standard. No ACL increase appears warranted at this time. The request for conversion charges would be more appropriately handled in the full review than within this interim rate determination.

DOD has requested that the footnote pertaining to R&R flights, which had been included in the table of rates in § 288.7 of the Board's Economic Regulations, be removed on the ground that it no longer has any applicability. We agree with DOD and have removed such reference to the R&R flights.

For reasons previously set forth we have determined to adjust the rates established by ER-786 retroactively to July 1, 1972. Moreover, as we indicated in the Notice of Proposed Rule Making, it was our intent to establish the interim final rate prospectively. No objections to the proposal were submitted. Therefore, we find good cause exists for making the rule effective prior to the expiration of the normal 30 days' notice.

AMENDMENTS

In consideration of the foregoing, the Board hereby amends Part 288 of the Economic Regulations (14 CFR Part 288) as follows:

1. Amend § 288.7 (a) (1) and (d) (1) and (2) to read as follows:

§ 288.7 Reasonable level of compensation.

* * * * *

(a) * * *

(1) Performed with turbine-powered aircraft:

AMENDED RATES EFFECTIVE JULY 1, 1972-JUNE 12, 1973, AND AUG. 13, 1973-AUG. 27, 1973

Aircraft type	Passengers, per passenger-mile		Cargo, per ton-mile		Convertible[1]		Mixed passenger-cargo per revenue plane-mile [2]	
	Round trip	One way	Round trip	One way	Passenger leg, per passenger-mile	Cargo leg, per ton-mile	Round trip	One way
Turboprops:	*Cents*	*Cents*	*Cents*	*Cents*	*Cents*	*Cents*	*Dollars*	*Dollars*
CL-44	2.00	3.60	9.39	17.19				
L-382/L-100-10/20/30			10.65	19.04				
Regular turbojets	2.003	3.778	7.923	15.270	2.003	9.134		
Passengers-pallets:								
165 and 0							3.313	6.234
117 and 3							3.191	6.042
105 and 4							3.160	5.994
93 and 5							3.129	5.947
81 and 6							3.099	5.899
63 and 7							3.052	5.827
51 and 8							3.022	5.779
0 and 12							2.852	5.576
DC-8F-61-63	2.003	3.778	7.923	15.270	2.003	9.134		
Passengers-pallets:								
219 and 0							4.337	8.274
159 and 5							4.170	7.950
65 and 12							3.812	7.290
47 and 13							3.744	7.175
0 and 18							3.566	6.874
B-727—Pacific interisland	[3] 2.631	[3] 5.025	13.872	27.007	2.631	16.047		
Passengers-pallets:								
105 and 0							2.762	5.276
61 and 2							2.652	5.143
50 and 3							2.624	5.115
46 and 4							2.614	5.103
0 and 7							2.497	4.969
B-727—All other	[3] 2.889	[3] 5.520	14.340	23.530	2.889	17.208		
Passengers-pallets:								
105 and 0							3.034	5.795
61 and 2							2.844	5.520
50 and 3							2.797	5.451
46 and 4							2.780	5.425
0 and 7							2.681	5.136

[1] Conversion charges for convertible flights or variable mixed flights shall be at the rate of $50 per seat changed on each segment.
[2] Also applies to CV-990 aircraft.

(1) PERFORMED WITH TURBINE-POWERED AIRCRAFT (FOR THE PERIOD JUNE 13-AUG. 12, 1973)

Aircraft type	Passengers, per passenger-mile		Cargo, per ton-mile		Convertible [1]		Mixed passenger-cargo per revenue plane-mile [1]	
	Round trip	One way	Round trip	One way	Passenger leg, per passenger-mile	Cargo leg, per ton-mile	Round trip	One way
	Cents	*Cents*	*Cents*	*Cents*	*Cents*	*Cents*	*Dollars*	*Dollars*
Turboprops:								
CL-44	2.00	3.60	9.36	17.19				
L-382/L-100-10/20/30			10.05	19.64				
Regular turbojets	1.959	3.686	7.730	14.903	1.959	8.911		
Passenger-pallets:								
105 and 0							3.232	6.085
117 and 3							3.113	5.893
105 and 4							3.083	5.848
93 and 5							3.053	5.802
81 and 6							3.023	5.755
63 and 7							2.978	5.686
51 and 8							2.948	5.638
0 and 12							2.821	5.440
DC-8F-61-63	1.959	3.686	7.730	14.903	1.959	8.911		
Passengers-pallets:								
219 and 0							4.290	8.073
159 and 5							4.068	7.698
65 and 12							3.719	7.113
47 and 13							3.653	7.009
0 and 18							3.479	6.700
B-727-Pacific Interisland	[2] 2.567	[2] 4.902	13.534	26.934	2.567	16.241		
Passengers-pallets:								
105 and 0							2.695	5.147
61 and 2							2.587	5.023
50 and 3							2.560	4.990
46 and 4							2.550	4.979
0 and 7							2.436	4.818
B-727-All other	[2] 2.819	[2] 5.385	13.990	27.840	2.819	16.788		
Passengers-pallets:								
105 and 0							2.960	5.651
61 and 2							2.775	5.395
50 and 3							2.729	5.318
46 and 4							2.712	5.293
0 and 7							2.518	5.011

[1] Conversion charges for convertible flights or variable mixed flights shall be at the rate of $50 per seat changed on each segment.
[2] Also applies to CV-990 aircraft.

AMENDED RATES EFFECTIVE AUG. 28, 1973

Aircraft type	Passengers, per passenger-mile		Cargo, per ton-mile		Convertible [1]		Mixed passenger-cargo per revenue plane-mile [1]	
	Round trip	One way	Round trip	One way	Passenger leg, per passenger-mile	Cargo leg, per ton-mile	Round trip	One way
	Cents	*Cents*	*Cents*	*Cents*	*Cents*	*Cents*	*Dollars*	*Dollars*
Turboprops:								
CL-44	2.00	3.60	9.36	17.19				
L-382/L-100-10/20/30 [2]			10.05	19.64				
Regular turbojets	2.042	3.842	8.057	15.534	2.042	9.288		
Passengers-pallets:								
105 and 0							3.369	6.339
117 and 3							3.245	6.145
105 and 4							3.214	6.096
93 and 5							3.182	6.048
81 and 6							3.151	5.999
63 and 7							3.104	5.926
51 and 8							3.073	5.877
0 and 12							2.940	5.670
DC-8F-61/63	[3] 2.042	[3] 3.842	[3] 8.057	[3] 15.534	[3] 2.042	[3] 9.288		
Passengers-pallets:								
219 and 0							4.472	8.414
159 and 5							4.240	8.024
65 and 12							3.876	7.413
47 and 13							3.808	7.286
0 and 18							3.626	6.930
B-727 Pacific Interisland	[4] 2.720	[4] 5.194	14.339	28.536	2.720	17.207		
Passengers-pallets:								
105 and 0							2.855	5.453
61 and 2							2.741	5.321
50 and 3							2.712	5.287
46 and 4							2.702	5.275
0 and 7							2.581	5.130
B-727—All other	[4] 2.902	[4] 5.543	14.402	28.659	2.902	17.282		
Passengers-pallets:								
105 and 0							3.047	5.820
61 and 2							2.857	5.513
50 and 3							2.809	5.475
46 and 4							2.792	5.449
0 and 7							2.592	5.168

[1] Conversion charges for convertible flights or variable mixed flights shall be at the rate of $50 per seat changed on each segment.
[2] The rates for L-100-10/20/30 aircraft in Pacific-Interisland services shall be the same as for the B-727.
[3] Also applies to wide-bodied (B-747 and DC-10) aircraft.
[4] Also applies to CV-990 aircraft.

Provided, however, That, effective August 28, 1973, if the price of any fuel or petroleum product purchased from DOD for such services varies from the levels specified in the attached Appendix F[1a], the total minimum compensation for the transportation provided shall be adjusted (either upward or downward, as the case may be) by the difference in the price per gallon for such product paid by the carrier and the price specified for such product in the attached Appendix F[1a] times the number of U.S. gallons of such product purchased by the carrier from DOD for the transportation provided.

* * * * *

(d) For Category A transportation:

(1) Passengers:

(i) For services performed between July 1, 1972, and June 12, 1973, and August 13, 1973 and August 28, 1973, 3.778 cents per passenger-mile.

(ii) For services performed between June 13, 1973 and August 12, 1973, 3.686 cents per passenger-mile.

(iii) For services performed on and after August 28, 1973, 3.842 cents per passenger-mile.

(2) Cargo:

(i) For services performed between July 1, 1972 and June 12, 1973, and August 13, 1973 and August 28, 1973, 15.276 cents per tone-mile.

(ii) For services performed between June 13, 1973 and August 12, 1973, 14.903 cents per passenger-mile.

(iii) For services performed on and after August 28, 1973, 15.534 cents per ton-mile.

2. Replace the table in § 288.8 (minimum aircraft loads) with the following:

Aircraft type	Number of passengers, all-passenger and convertible flights	Tons of cargo	
		All-cargo flights	Convertible flights
B-747	375	90	90
DC-10-40	280	----	----
DC-10-30	303	75	75
DC-10-10	280	60	60
B-707-320-B/C	165	36.5	31.7
B-707-300 series	159	----	----
B-707-138B	137	----	----
B-707-100 series (other)	149	----	----
DC-8F-61, -63	219	45	39.0
DC-8-62	165	39.2	----
DC-8F	165	36.5	31.7
DC-8 (50 series)	149	----	----
DC-8 (other)	147	----	----
DC-9-30	95	----	----
B-727	105	18	15.0
CV-990	105	----	----
CL-44	148	29.35	----
L-382	----	20.7	----
L-100-10/20/30	----	20.7	----
L-1649A	95	18	15
L-1049-C/E/G/H	95	18	15
DC-7B/C/CF/F	95	18	15
L-1049A	88	15	12
DC-7	88	15	12
DC-6/A/B/C	83	13	12
DC-4	60	8	6

(Secs. 204, 403, and 416, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, and 771, as amended (49 U.S.C. 1324, 1373, and 1386.))

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.73-18656 Filed 8-31-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER F—POLICY STATEMENTS

[Reg. PS-53; Amdt. 32]

PART 399—STATEMENTS OF GENERAL POLICY

Category Z Individually Ticketed Military Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

On June 5, 1973, by notice of proposed rulemaking EDR-249/PSDR-35 (38 FR 15368), the Board proposed, among other things, to amend Part 399, is Statements of General Policy, by changing the minimum rate for Category Z individually ticketed military transportation.

Comments in response to the Notice, filed by a number of interested persons, are discussed in ER-819, which amends Part 288 of the Economic Regulations and is being issued concurrently herewith. For the reasons set forth in ER-819, which are incorporated by reference herein, the Civil Aeronautics Board hereby amends Part 399, Statements of General Policy (14 CFR Part 399) effective August 28, 1973, as follows:

Amend § 399.16(b) to read as follows:

§ 399.16 Military exemptions.

* * * * *

(b) The minimum charges considered fair and reasonable for the transportation of Category Z individually ticketed passengers in foreign and overseas air transportation and in air transportation between the 48 contiguous States on the one hand and Hawaii or Alaska on the other, effective on and after August 28, 1973, will be 3.842 cents per passenger-mile, applied to the shortest mileage between the commercial air carrier points as set forth in the current IATA Mileage Manual to compute point-to-point passenger fares.

(Secs. 204, 403, and 416 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758 and 771, as amended; 49 U.S.C. 1324, 1373 and 1386.)

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.73-18657 Filed 8-31-73;8:45 am]

Title 15—Commerce and Foreign Trade

SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE

PART 8—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF COMMERCE—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Correction

In FR Doc. 73-13283, appearing at page 17938 for the issue for Thursday, July 5, 1973, make the following corrections:

1. In the third line of § 8.4(c)(1) "which this part applies is to provide employment, a recipient", should be inserted just after "program to".

2. In the fifth line of § 8.5(a) "to" should be inserted just after "subject".

3. In the sixteenth line of § 8.5(a) the word now spelled "responsibile" should be spelled "responsible".

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER B—EXPORT REGULATIONS

[13th Gen. Rev., Export Regs., Amdt]

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

Agricultural Commodities, Reporting Requirements

U.S. exporters have been required to submit two different reporting forms on a weekly basis to show anticipated and actual export activity with respect to those agricultural commodities listed in Supplement No. 1 to Part 376 of the Export Control Regulations. The forms used are Form DIB-634P, which basically requires a listing of anticipated exports, and Form DIB-635P, which requires reports of actual exports and a reconciliation of changes from one week to the next in the anticipated export data reported on Form DIB-634P. The regulations are hereby amended to require regular weekly reporting only on Form 635P, and the filing instructions for both forms are amplified. Further, the regulations are amended to require with respect to anticipated exports of cotton, a special report to be filed, which will indicate the details of cotton export contracts.

I. *Changes in Reporting Requirements With Respect to Certain Agricultural Products.* (a) *Form 634P to be required quarterly.*—Regular weekly reporting shall, hereafter, be required only on Form 635P. Form 634P will continue to be used for the initial reporting of anticipated exports; and thereafter on the first Monday of each calendar quarter rather than weekly. Accordingly, reports of all subsequent anticipated and actual export activity shall be reported weekly on Form DIB-635P without the need to file concurrently a Form DIB-634P. Instructions for completing Form DIB-635P are set forth in § 376.3(a) of the regulations (as revised); the instructions for completing and filing both forms are amplified in new Supplement No. 2 to Part 376. Hereafter, after an initial Form DIB-634P has been filed by an exporter, subsequent Form DIB-634P's shall be filed only on the first Monday of October, January, April and July, showing the status of anticipated exports as of the close of business on the preceding Friday. The first such subsequent Form DIB-634P shall be due on October 1, 1973.

(b) *Special report required showing contract details with respect to anticipated exports of cotton (Form 649P).*[1]—In order to assist the Department of Commerce in monitoring on a current

[1] Form 649P will soon be available from all U.S. Department of Commerce District Offices and from the Office of Export Control (Attn: 547, U.S. Department of Commerce, Washington, D.C. 20230.

basis, the exports of and foreign demand for cotton, the regulations are revised to require each U.S. exporter to file, no later than September 10, 1973, a report on Form DIB–649P indicating the details of all orders for export of cotton which were unfilled or partially filled as of August 24, 1973, and, therefore, reportable pursuant to the reporting requirements established by the FEDERAL REGISTER issuance of July 9, 1973. The new information required to be reported on Form DIB–649P is specified in § 376.3(a)(3), as revised.

(c) *Change in unit of quantity for cotton reports.*—The reporting requirements are amended to require that anticipated exports of cotton, which previously were required to be reported in both pounds and running bales, be reported in running bales only, on Forms 649P, 634P, and 635P.

II. *Changes in deadlines for filing certain reports.*—The Office of Export Control is aware of the difficulty incurred by certain exporters in meeting the Monday filing deadline, as presently formulated. Accordingly, the regulations are hereby revised to facilitate timely filing through the use of new procedural options. Exporters who choose to deliver the required forms directly to the Office of Export Control may have those hand-carried to Room 1613, Main Department of Commerce Building, 14th and E Streets NW., Washington, D.C. After normal business hours, a receiving desk is maintained in the main lobby of the building on Mondays until 12 P.M. An exporter who does not find it feasible to insure delivery of a required report in the hands of the Office of Export Control by Monday, midnight, may avail himself of the following options in satisfaction of the Monday filing deadline:

A. Exporters using the mails are advised that the Department has opened a post office box to avoid delays in mail sorting. Accordingly, all reports which are mailed should be mailed to the Office of Export Control at the address shown below:

Office of Export Control, Post Office Box 7138, Ben Franklin Station, Washington, D.C. 20044.

Those exporters located in cities served by the Guaranteed Overnight Express Mail Service are advised to inquire into this new service, recently established by the U.S. Postal Service.

B. Reports sent to the above post office box will be deemed to have been timely filed irrespective of whether these are in fact received by the Office of Export Control within the Monday deadline, but only if the reports are postmarked no later than midnight of the Friday preceding the Monday deadline and they are received by the Office of Export Control in the regular and usual course of the mail. The requirement of a Friday postmark refers to a postmark by the U.S. Postal Service. A date affixed by postal meter will not satisfy this requirement, nor will mere depositing in a postal letter box if the U.S. Postal Service does not actually affix a Friday postmark.

C. The report may (pursuant to the instructions of Item 3 of new Supplement No. 2 to Part 376) be transmitted to this Department by Telex or TWX before midnight on the required Monday; however, after such transmission, the actual forms must be physically received by the Office of Export Control in Washington, D.C., no later than the Wednesday following such Monday filing deadline. Exporters who choose to deliver the required forms directly may hand-carry these to the above-mentioned receiving desk in the main lobby of the Main Commerce Building, which is maintained until 10:00 P.M. on Wednesdays.

The need to obtain timely filed reports with which to collect accurate estimates of anticipated exports continues to be of paramount importance, and the Department of Commerce wishes to stress that in light of the aforementioned measures to alleviate filing difficulties, the deadlines for filing will be strictly enforced subject to the penalties provided in the Export Control Regulations.

Accordingly, the Export Control Regulations (15 CFR Part 376) are revised by amending § 376.3(a), by amending Supplement No. 1 to Part 376, and by adding a new Supplement No. 2 to such Part. These amended and added provisions read as follows:

§ 376.3 Agricultural commodities requiring reports.

(a) *Exports and anticipated exports of certain agricultural commodities.* (1) *Initial Report of Unfilled Orders.*—No later than the date shown in Column D of Supplement No. 1 to this Part 376, each U.S. exporter shall file a report of all anticipated export (as hereinafter defined) of more than $250 of each separate agricultural commodity listed in Supplement No. 1. Such report will provide the tonnage (in metric tons) of such anticipated exports as of the close of business on the date shown in Column C of Supplement No. 1, unless other unit of quantity is specified in Supplement No. 1. The commodities subject to the reporting requirement set forth herein shall be listed by the appropriate number in Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States, U.S. Bureau of the Census, as set forth in Supplement No. 1, and in the cases of wheat and cotton also by the separate classes set forth in Supplement No. 1; by country of ultimate destination; and by month of scheduled or anticipated export. For optional sales, the report shall include that portion of the sale expected to be exported from the United States, or in the case of optional class or kind of commodity, the report shall include the particular class or kind of commodity expected to be exported. A separate report shall be filed on the appropriate Form DIB–634P (a) through (j) "Anticipated Exports" for each of the agricultural commodity groupings listed in Supplement No. 1. Form DIB–634P is promulgated in series (a) through (j) inclusive, so that each of the commodity groupings has its own particular form, designated by color coding. If there are no anticipated exports of any commodity grouping to report on the date shown in Column C of Supplement No. 1, the initial report shall be submitted no later than the Monday following the week in which orders or other commitments arise (or if such Monday is a National holiday, the first business day thereafter). After an initial report on Form DIB–634P (a) through (j) has been filed, a corresponding subsequent Form DIB–634P shall be filed on the first Monday of each subsequent October, January, April, and July (or the first business day following such a Monday, if it is a National holiday), showing the status of anticipated exports as of the close of business on the preceding Friday.

(2) *Subsequent reports.*—On the date indicated in Column E of Supplement No. 1 to this Part 376, and on each Monday thereafter (or on the first business day following such a Monday, if it is a National holiday), each U.S. exporter shall file a report on the appropriate Form DIB–635P (promulgated in series (a) through (j) to correspond with the Form DIB–634P series) which shall state as of the close of business on the preceding Friday all anticipated exports of more than $250 for each separate commodity set forth in such Supplement No. 1. Such report shall include a reconciliation of all changes from the prior report (if any), which will show in aggregate form: (i) all new anticipated exports of more than $250; (ii) all cancellations of, or changes in, orders previousy reported; (iii) a breakdown indicating whether such cancelled orders were accepted on or before the date shown in Column C of Supplement No. 1, or accepted after such date; (iv) all exports made since the closing date of the prior report, whether or not such exports were made against reported or accepted orders; (v) a breakdown of exports indicating whether they were against orders accepted on or before the date shown in Column C of Supplement No. 1, or against orders accepted after that date; (vi) any changes in the quantities to be exported to particular countries; (vii) any changes in the month of scheduled or anticipated export; (viii) in the case of optional sales, any change in the particular class or kind of commodity expected to be exported from the U.S.; and (ix) in the case of anticipated exports for any commodity, month, or country that were not previously reported, an entry of zero (0) in Item 1 and the addition of the new information, as appropriate. Once an initial Form DIB–634P has been submitted, the appropriate Form DIB–635P shall be submitted each week with an itemization of the specific changes for the week being reported. The notation, "No Change," shall be entered as a summarization when the entire report or any column thereof is unchanged from the previous week. Where there are changes, even though these do not result in differences in the aggregates because they are offsetting, such changes shall be entered on the appropriate Form DIB–635P. Weekly reporting for any

commodity group may be discontinued only when anticipated shipments of that group have been reduced to zero, and shall be resumed whenever new anticipated exports occur (and at the time of such resumption, a Form DIB–634P shall be filed pursuant to the rules of subparagraph (1) of this paragraph, as if it were an initial report). If the date in Column C of Supplement No. 1 is different from that shown in the heading or any item of Form DIB–635P, the dates on the form shall be corrected accordingly.

(3) *Report of contract details with respect to anticipated exports of cotton.*—Each U.S. exporter shall, on or before September 10, 1973, file a report indicating the details of all orders for export of more than $250 of each separate raw cotton commodity listed in Group X of Supplement No. 1 to this Part 376, which were unfilled or partially filled as of August 24, 1973. Such report shall be filed on Form DIB–649P and shall indicate for each such order: (i) the exporter's contract identification number and the delivery dates; (ii) the date the contract was entered into; (iii) the name of the foreign buyer, (iv) foreign destination, (v) U.S. shipping point and delivery terms; (vi) the exporter's suppliers; (vii) total quantity under contract, (viii) quantity shipped on or before August 24, (ix) quantity thereafter remaining unshipped. All quantities shall be expressed in running bales and broken-down in accordance with the respective amounts corresponding to the commodity descriptions in Group X of Supplement No. 1.

(4) *Reporting requirements.* (i) *Manner of reporting.*—All reports required under this Part 376 must be filed in an original and one copy with the Office of Export Control. Except as provided in this subdivision, such reports shall be deemed filed only when actually received by the Office of Export Control. Reports sent by mail must be addressed to Post Office Box 7138, Ben Franklin Station, Washington, D.C. 20044, and will be deemed to have been timely filed irrespective of whether these are in fact received by the Office of Export Control within the Monday deadline, but only if the reports are postmarked by the U.S. Postal Service no later than midnight of the Friday preceding the Monday deadline and they are received by the Office of Export Control in the regular and usual course of the mail. Additionally, reports on Form DIB–635P may be filed by Telex or TWX no later than the Monday following the week covering the report, pursuant to the guidelines set forth in Item No. 3 to Supplement No. 2 of this Part, but only if the actual forms, marked "Confirmation of Telex (or if appropriate, TWX) Report" across the top, are received by the Office of Export Control in Washington, D.C. no later than the first Wednesday following the week being reported.

(ii) *Date of export.*—For purposes of § 376.3 only, a commodity shall be considered as scheduled for export on the date the exporting carrier is expected to depart from the United States.

(iii) *Corrections.*—If, because of a carrier's earlier or delayed departure or for other reasons, data reported pursuant to (ii) above are found to have been incorrect, such facts shall be set forth on the appropriate Form DIB–635P, (a) through (j).

(iv) *Who shall file reports.*—For purposes of § 376.3 only, in order to prevent duplication as well as to insure complete and accurate coverage or pending orders and shipments, the exporter as the principal party in interest in the export transaction will have the sole responsibility of reporting any and all information even though there may also be a U.S. order party involved. The exporter will have the sole responsibility of reporting the anticipated exports whether the exporter employs a freight forwarder to handle the shipping of the material or delivers the material to a carrier for export out of the country.

(v) *"Anticipated exports."*—The term "anticipated exports" as used herein and in the reporting forms means exports expected that are based upon accepted

SUPPLEMENT NO. 1 --

AGRICULTURAL COMMODITIES SUBJECT TO MONITORING

A.	B.	C.	D.	E.
Schedule B Number	Commodity Description	Report Unfilled Orders as of:	Initial Report Due By:	Subsequent Reports Beginning:
	GROUP I—WHEAT			
041.0020	Wheat—Hard red winter	June 13, 1973	June 20, 1973	June 25, 1973
041.0020	Wheat—Soft red winter	June 13, 1973	June 20, 1973	June 25, 1973
041.0020	Wheat—Hard red spring	June 13, 1973	June 20, 1973	June 25, 1973
041.0020	Wheat—White	June 13, 1973	June 20, 1973	June 25, 1973
041.0020	Wheat—Durum	June 13, 1973	June 20, 1973	June 25, 1973
	GROUP II—RICE			
042.1010	Rice in the husk, unmilled	June 13, 1973	June 20, 1973	June 25, 1973
042.1030	Rice, husked, long grain	June 13, 1973	June 20, 1973	June 25, 1973
042.1040	Rice, husked, medium grain	June 13, 1973	June 20, 1973	June 25, 1973
042.1050	Rice, husked, short grain	June 13, 1973	June 20, 1973	June 25, 1973
042.1060	Rice, husked, mixed	June 13, 1973	June 20, 1973	June 25, 1973
042.2022	Rice, parboiled, long grain	June 13, 1973	June 20, 1973	June 25, 1973
042.2024	Rice, parboiled, medium grain	June 13, 1973	June 20, 1973	June 25, 1973
042.2026	Rice, parboiled, short grain	June 13, 1973	June 20, 1973	June 25, 1973
042.2028	Rice, parboiled, mixed grain	June 13, 1973	June 20, 1973	June 25, 1973
042.2030	Rice, milled, containing 75% or more broken kernels	June 13, 1973	June 20, 1973	June 25, 1973
042.2050	Rice, milled, long grain, containing less than 75% broken kernels	June 13, 1973	June 20, 1973	June 25, 1973
042.2060	Rice, milled, medium grain, containing less than 75% broken kernels	June 13, 1973	June 20, 1973	June 25, 1973
042.2070	Rice, milled, short grain, containing less than 75% broken kernels	June 13, 1973	June 20, 1973	June 25, 1973
042.2080	Rice, milled, mixed grain, containing less than 75% broken kernels	June 13, 1973	June 20, 1973	June 25, 1973
	GROUP III—BARLEY			
043.0000	Barley, unmilled	June 13, 1973	June 20, 1973	June 25, 1973
	GROUP IV—CORN			
044.0020	Corn, except seed, unmilled	June 13, 1973	June 20, 1973	June 25, 1973
	GROUP V—RYE			
045.1000	Rye, unmilled	June 13, 1973	June 20, 1973	June 25, 1973
	GROUP VI—OATS			
045.2000	Oats, unmilled	June 13, 1973	June 20, 1973	June 25, 1973
	GROUP VII—GRAIN SORGHUMS			
045.9015	Grain sorghums, unmilled	June 13, 1973	June 20, 1973	June 25, 1973
	GROUP VIII—SOYBEAN AND SOYBEAN PRODUCTS			
081.3030	Soybean oil-cake and meal	June 13, 1973	June 20, 1973	June 25, 1973
221.4000	Soybeans	June 13, 1973	June 20, 1973	June 25, 1973
421.2010	Soybean oil, crude, including degummed	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973
421.2020	Soybean oil, once refined	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973
421.2040	Soybean salad oil, refined and further processed by bleaching, deodorizing, or winterizing	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973

orders that are unfilled in whole or in part or upon other firm arrangements, such as exports for the exporter's own account on the basis of an order from the exporter's foreign affiliate or agent. It does not include merely hoped for orders or volume commitments without fixed price or fixed basis for price.

AGRICULTURAL COMMODITIES SUBJECT TO MONITORING—*Continued*

A. Schedule B Number	B. Commodity Description	C. Report Unfilled Orders as of:	D. Initial Report Due By:	E. Subsequent Reports. Beginning:
431.2010	Soybean oil, hydrogenated	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973
431.2030	Fats and oils, hydrogenated *the following only:* Cottonseed and soybean oil mixture	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973
	GROUP IX—COTTONSEED AND COTTONSEED PRODUCTS			
081.3020	Cottonseed oil—cake and meal	June 13, 1973	June 20, 1973	June 25, 1973
221.6000	Cottonseed	June 13, 1973	June 20, 1973	June 25, 1973
421.3010	Cottonseed oil, crude	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973
421.3020	Cottonseed oil, once refined	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973
421.3040	Cottonseed salad oil, refined and further processed by bleaching, deodorizing, or winterizing	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973
431.2020	Cottonseed oil, hydrogenated	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973
	GROUP X—OTHER AGRICULTURAL COMMODITIES			
263.1011	American—Egyptian and Sea Island domestic raw cotton (Report *in* running bales (Rba))	July 5, 1973	July 13, 1973	July 16, 1973
263.1021	Upland domestic raw cotton, staple length 1⅛ inches and over (U.S. official standard) (Report *in* running bales (Rba))	July 5, 1973	July 13, 1973	July 16, 1973
263.1031	Upland domestic raw cotton staple length 1 inch (U.S. official standard) (Report *in* running bales (Rba))	July 5, 1973	July 13, 1973	July 16, 1973
263.1031	Upland domestic raw cotton, staple length 1$\frac{1}{32}$ inches (U.S. official standard) (Report *in* running bales (Rba))	July 5, 1973	July 13, 1973	July 16, 1973
263.1031	Upland domestic raw cotton, staple length 1$\frac{1}{16}$ up to 1⅛ inches (U.S. official standard) (Report *in* running bales (Rba))	July 5, 1973	July 13, 1973	July 16, 1973
263.1041	Upland domestic raw cotton, staple length under 1 inch. (U.S. official standard) (Report *in* running bales (Rba))	July 5, 1973	July 13, 1973	July 16, 1973
263.1051	Raw cotton, foreign, reexported (identify by staple length and country of origin) (Report *in* running bales (Rba))	July 5, 1973	July 13, 1973	July 16, 1973
263.3020	Cotton card strips (report in pounds (Lb.))	July 5, 1973	July 13, 1973	July 16, 1973
263.3030	Cotton comber waste (report in pounds (Lb.))	July 5, 1973	July 13, 1973	July 16, 1973
263.4000	Cotton, carded or combed (laps, sliver, and roving) (report in pounds (lb.))	July 5, 1973	July 13, 1973	July 16, 1973

SUPPLEMENT NO. 2—GUIDELINES FOR COMPLETING REPORTS FOR AGRICULTURAL COMMODITIES

1. *Forms to be submitted.*—Initially, the appropriate Form DIB–634P must be submitted for orders received by close of business on Friday of the first reporting week. Subsequently, changes as of the close of business on each successive Friday are to be submitted on Form DIB–635P.

2. *Due date.*—Except as noted in Item 3 below, all weekly reports must be received by the Office of Export Control (U.S. Department of Commerce), in Washington, D.C., no later than Monday of the following week. If Monday is a National holiday, the reports must be received on the first business day thereafter. In the case of reports that are filed by Telex or TWX (see item 3(d) below), the Forms DIB–635P must be received no later than Wednesday of that week.

3. *Filing procedure.*—a. Reports shall be mailed to:

Office of Export Control, P.O. Box 7138, Ben Franklin Station, Washington, D.C. 20044.

Office of Export Control personnel will collect mail directly from the P.O. Box, thus eliminating several steps in the delivery process.

b. A Guaranteed Overnight Express Mail Service is available at designated post offices in major cities whereby reports deposited before 5:00 PM at the Express Mail Window will be guaranteed delivery in Washington, D.C. by 10:00 AM the following business day. Exporters who desire to use this service should address their report package as follows:

Benjamin Franklin Station, 12th & Pennsylvania Avenue NW., Washington, D.C. 20044.

Hold for: Office of Export Control.

Office of Export Control personnel will collect such mail directly from the post office on the first business day of each week. Saturday service is available in 29 of the participating cities, guaranteeing delivery by 10:00 AM on Monday. Exporters should contact the central Post Office in their city to determine whether this service is available.

c. If desired, reports may be hand-carried to Room 1613, Main Department of Commerce Building, 14th and E Streets, N.W., Washington, D.C., during normal business hours; and thereafter, to an office maintained adjacent to the main lobby of such building.

d. In addition, reports will be accepted by Telex (892536) or TWX (710–822–0181) until midnight on Monday, with signed reports on Form DIB–635P to follow no later than the following Wednesday. Exporters using this system are reminded that Commerce Department facilities are available to receive messages throughout the weekend. By sending early, possible congestion can be avoided on Mondays. To be acceptable, reports transmitted by Telex or TWX must conform strictly to the format of the Form DIB–635P. The Telex or TWX shall be addressed to the Office of Export Control and be headed "DIB–635P for week ending Friday (date) ." Following the name and address of the reporting exporter, the commodity group of the first group to be reported shall be identified (Group I through X, as appropriated). Then each column of the Form DIB–635P shall be enumerated separately, headed by the country, class or Schedule B No., and month; and also in the case of Group X commodities only, the community description. Each numbered line item on the form shall then be identified by number, in order, with each entry on a separate line, and the quantity relevant to that column inserted following each number (e.g., if 20,000 metric tons are being reported under Item 1, "Quantity on previous report," the Telex or TWX shall show "Item 1. 20,000"). Where no change has occurred in any column, the country, class or Schedule B No., and month shall nevertheless be listed, followed by the notation, "No Change". Where changes have occurred in some, but not all, of the line items in a column, only line items 1 and 10 and those line items reflecting actual change need be shown. If a line item has not changed, the line item number may be omitted from the Telex or TWX. After all columns on a report for one commodity group have been listed, the group number of the next commodity group shall be inserted and the applicable columns for that group listed in turn. When all of the exporter's reports have been entered on the wire, it should close with a certification and the name and title of the signer. The certification shall read: "I certify that the information reported in this Telex (or if appropriate, TWX) is an accurate statement of all exports, new, changed or cancelled orders, changes in destination, changes in anticipated date of export, and reconciliation of anticipated export report data."

Reports so submitted must be followed by the appropriate signed Forms DIB–635P and be received by the Office of Export Control no later than Wednesday of the week following the week being reported. These reports must be prominently marked across the top of each sheet "Confirmation of Telex (or if appropriate, TWX) Report." The information on the wire must be in strict conformity with that on the confirming Form DIB–635P. (Note: If reports are not submitted by Telex or TWX, the actual Forms DIB–635P *must* be received in the Department of Commerce no later than Monday, or mailed by the preceding Friday, pursuant to the rules of (e) below.)

e. The filing requirements will be satisfied if the reports are mailed to the Office of Export Control, Post Office Box 7138, Ben Franklin Station, Washington, D.C. 20044, but only if the reports are postmarked by the U.S. Postal Service no later than midnight of the Friday preceding the Monday deadline and they are received by the Office of Export Control in the regular, and usual course of the mail.

4. *Which version of forms to complete.*—An exporter should complete forms on only those products or commodity groups that he exports. In other words, if an exporter exports only rice, he should not submit reports on the other nine commodity groupings.

5. *Continuing nature of reporting.*—Once an anticipated shipment for a commodity grouping has been reported, a weekly Form

DIB–635P indicating a change in status or no change in status must continue to be submitted. An exporter may discontinue reporting for a commodity group previously reported only when his actual exports and other reported changes have reduced his anticipated shipment figure to zero. It is important that the exporter report his zero balance prior to discontinuing reporting on that commodity group.

6. *Closing out balance at end of month.*—Anticipated shipments for any commodity reported for a specific month should be closed out at the end of that month, and the balance of unshipped exports should be carried forward to the following month. For example, if an exporter has reported anticipated shipments of wheat in the amount of 10,000 M/T for the month of June, and his actual exports for that month are only 5,000 M/T, his balance will be 5,000 M/T of unshipped wheat, assuming the order covering the unshipped balance has not been cancelled. This balance should be transferred to anticipated shipments for the month of July. The figures for the month of June should be adjusted to reflect a zero balance. The same procedure would then be followed at the end of each successive month.

7. *Reporting of errors.*—Occasionally an exporter may discover an error in previously submitted reports. Rather than to continue this error for successive reporting weeks, the adjustment shall be made for the reporting period during which the error is discovered. Such adjustment shall be made in Item 9 of the appropriate Form DIB–635P and shall be accompanied by a complete explanation of such reporting error.

8. *Reporting of multiple sales.*—In the case of multiple sales where a company may sell a certain lot of grain or other agricultural commodity to a foreign firm and another company may purchase the same lot of grain or other agricultural commodity from the foreign firm, the following reporting procedure shall be adhered to: Each sale to a foreign firm should be reported as an export or plus (+) transaction, while each purchase of a U.S. origin commodity by a reporting firm from a foreign firm should be entered as an import or minus (−) transaction. Figures in the latter case should be subtracted from what would otherwise be the total in the box applicable to the particular country and for the month of anticipated export that was specified when the commodity was first sold to the foreign firm. If a negative balance is obtained in a particular month for a particular country, this result should be indicated clearly by a negative sign. If the commodity purchased from a foreign firm is later sold for export by the purchasing company, it should then be reported as an export or plus (+) transaction.

9. *Reporting anticipated exports to an unknown destination.*—When a sales contract does not specify a country of destination for an anticipated export, the commodity information shall be reported by entering it in one of the country columns which shall be labeled "Country Unknown." When the actual country of destination is determined, the subsequent report shall revise this information.

10. *Specific instructions for completing Form DIB–635P.*—a. Any change in the anticipated exports of a commodity previously reported must be reflected on the appropriate weekly Form DIB–635P.

b. Anticipated exports for any commodity, month, or country not previously reported will be submitted on the appropriate Form DIB–635P by showing in Item 1 (quantity on previous report) a balance of 0 and then adding the new information necessary.

c. Only those commodities that have specific changes for the reporting week need to be itemized. All other commodities can be summarized with a notation, "No Change". For example, if an exporter is reporting 10 separate anticipated exports of wheat and only two of these shipments show any change of status for a given week, he will itemize only the two changes. He will then indicate on the form that there is no change for the remaining eight anticipated exports.

d. Any commodity group previously reported on which there is still an outstanding (unshipped) balance of anticipated exports must be covered by a Form DIB–635P even if there is no change for any item within that group. This can be done simply by taking a single Form DIB–635P for the group in question and inserting "No Change" on the face of the form.

e. Quantities should be reported to the nearest whole unit. Do not use fractions or decimals.

f. Should a company's weekly report on Form DIB–635P require more than one page for any commodity grouping, it is not necessary for the exporter to type his complete address on each continuation sheet. The company name, however, should appear on each form.

NOTICE

There have been significant delays in filing of reports. These reports provide a data base for accurate and timely analysis of foreign orders and shipments. Delays in receipt of reports are serious in that they impair the accuracy of the statistics. It is imperative that weekly reports be received in the Department of Commerce, Washington, D.C., no later than Monday of the week following the week being reported (unless postmarked no later than midnight of the preceding Friday and received in the regular course of the mail), or received no later than Wednesday for those reports filed by Telex or TWX in accordance with the provisions of Item 3 of this Supplement.

Effective date of action August 29, 1973.

RAUER H. MEYER,
Director,
Office of Export Control.

[FR Doc.73–18705 Filed 8–30–73;4:19 pm]

Title 30—Mineral Resources

CHAPTER I—BUREAU OF MINES, DEPARTMENT OF THE INTERIOR

SUBCHAPTER N—METAL AND NONMETALLIC MINE SAFETY

PART 57—HEALTH AND SAFETY STANDARDS; METAL AND NONMETALLIC UNDERGROUND MINES

Miscellaneous Amendments

Correction

In FR Doc. 73–18235, appearing at page 23381 in the issue of Wednesday, August 29, 1973, in § 57.4, standard 57.4–74, substitute the word "evacuation" for the word "evaluation" wherever it appears; and on page 23382 in numbered paragraphs 1 and 2 near the top of the middle column, the effective dates, reading "August 29, 1978" should read "August 29, 1973".

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O,O-Diethyl O-(2-Isopropyl-6-Methyl-4-Pyrimidinyl)Phosphorothioate

A petition (PP 3F1415) was filed by Ciba-Geigy Corp., Ardsley, N.Y. 10502, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of a tolerance for negligible residues of the insecticide *O,O*-Diethyl *O*-(2 - isopropyl - 6 - methyl-4-pyrimidinyl) phosphorothioate in or on the raw agricultural commodities guar beans and forage at 0.1 part per million.

In the FEDERAL REGISTER of February 28, 1969 (34 FR 2623), an order was published establishing tolerances for residues of the subject insecticide in or on lespedeza at 1 part per million; dandelions and mustard greens at 0.75 part per million; almonds, filberts, pecans, and walnuts at 0.5 part per million; cottonseed at 0.2 part per million; and cowpea forage, cowpeas, potatoes, soybean forage, soybeans, and sweetpotatoes at 0.1 part per million. These tolerances were not published in the Code of Federal Regulations and thus are republished in this order.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The insecticide is useful for the purpose for which the tolerance is being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerance established by this order will protect the public health.

4. The appropriate chemical name for the subject insecticide should be *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 F.R. 9038), § 180.153 is amended by revising the heading, introductory sentence, and paragraphs "1 part per million * * *", "0.75 part per million in or on apples * * *", "0.2 part per million * * *", and "0.1 part per million * * *", and adding the two new paragraphs "0.5 part per million * * *" and "0.1 part per million (negligible residue) * * *", as follows:

§ 180.153 *O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate; tolerances for residues.

Tolerances for residues of the insecticide *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate in or on raw agricultural commodities are established as follows:

* * * * *

1 part per mission in or on lespedeza and olives.

0.75 part per million in or on apples, apricots, beans (snaps), beet roots, beet tops, blackberries, blueberries, boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cherries, citrus, collards, corn (kernels and cob with husks removed), cranberries, cucumbers, dandelions, dewberries, en-

dive (escarole), figs, grapes, hops, kale, lettuce, lima beans, loganberries, melons, mustard greens, nectarines, onions, parsley, parsnips, peaches, peanuts, pears, peas with pods (determined on peas after removing any shell present when marketed), peppers, pineapples, plums (fresh prunes), radishes, raspberries, sorghum grain, spinach, strawberries, sugar beet roots, sugarcane, summer squash, Swiss chard, tomatoes, turnip roots, turnip tops, watercress, and winter squash.

* * * * *

0.5 part per million in or on almonds, filberts, pecans, and walnuts.

0.2 part per million in or on bananas (of which not more than 0.1 part per million shall be present in the pulp after peel is removed) and cottonseed.

0.1 part per million in or on cowpea forage, cowpeas, potatoes, soybean forage, soybeans and sweetpotatoes.

0.1 part per million (negligible residue) in or on guar beans and forage.

Any person who will be adversely affected by the foregoing order may at any time on or before October 4, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th and M Streets SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date.—This order shall become effective on September 4, 1973.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

Dated: August 28, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-18626 Filed 8-31-73;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 116]

PART 1-9—PATENTS, DATA, AND COPYRIGHTS

Allocation of Rights in Inventions

This amendment of the Federal Procurement Regulations prescribes policies, procedures, and appropriate contract clauses concerning the allocation of rights in inventions, which enable the Government agencies not otherwise subject to statute to implement the President's Statement of Government Patent Policy (36 FR 16887, August 26, 1971). The attention of interested parties is particularly directed to the paragraph entitled "Comments by interested parties invited" which follows the regulation.

The table of parts of Chapter 1 is amended to add the following entry: 1-9 Patents, data, and copyrights.

Chapter 1 is amended by adding new Part 1-9 as follows:

Subpart 1-9.1—Patents

Sec.

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

Subpart 1-9.1—Patents

§ 1-9.100 Scope of subpart.

This subpart sets forth policies, procedures, and contract clauses with respect to inventions made in the course of or under a contract or subcontract entered into with or for the benefit of the Government where a purpose is the conduct of experimental, developmental, or research work. The policy, procedures, and contract clauses may also be used in grants, agreements, and other arrangements as agencies deem appropriate.

§§ 1-9.101—1-9.106 [Reserved]

§ 1-9.107 Patent rights under contracts for research and development.

§ 1-9.107-1 General.

(a) *Introduction.* On August 23, 1971, the President issued a Statement of Government Patent Policy (36 FR 16887, August 26, 1971) applicable to all executive departments and agencies, revising a prior Statement of Policy (28 FR 10943, October 12, 1963). Essentially, the goals of this Statement are to provide criteria for determining the allocation of rights in inventions resulting from federally sponsored research and development contracts, to promote their expeditious development so that the public can benefit from early civilian use of the inventions, and to ensure their continued availability. In applying this regulation, agency heads must weigh both the need for incentives to draw forth private initiatives, and the need to promote healthy competition in industry. Within prescribed limits, the Statement gives agency heads greater latitude to allocate to contractors such additional rights to Government-sponsored inventions as are deemed necessary to encourage commercial use of the invention, or where equitable circumstances would justify such allocation of rights. Consistent with the FPR system, agencies may implement and supplement this subpart.

(b) *Applicable statutes.*—Except to the extent that agencies are governed by specific statutes or by any treaty or agreement between the United States and any foreign country that are inconsistent with this subpart, agencies shall follow the provisions of this subpart, including the use of the prescribed clauses. Modifications to the prescribed clauses are permissible to the extent that these clauses are inconsistent with the requirements of statutes, treaties, or agreements.

(c) *Co-sponsored, cost-sharing, or joint-venture research.* The provisions of this subpart are not mandatorily applicable to co-sponsored, cost-sharing, or joint-venture research when the agency determines that in the course of the work under the contract the contractor will be required to make a substantial contribution of funds, facilities, or equipment to the principal purpose of the contract.

§ 1-9.107-2 [Reserved]

§ 1-9.107-3 Policy.

(a) The Government shall normally acquire or reserve the right to acquire the principal or exclusive rights throughout the world in and to any inventions made in the course of or under a contract where:

(1) A principal purpose of the contract is to create, develop, or improve products, processes, or methods which are intended for commercial use (or which are otherwise intended to be made available for use) by the general public at home or abroad, or which will be required for such use by governmental regulations; or

(2) A principal purpose of the contract is for exploration into fields which directly concern the public health, public safety, or public welfare; or

(3) The contract is in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and the acquisition of exclusive rights at the time of contracting might confer on the contractor a preferred or dominant position; or

(4) The services of the contractor are:

(i) For the operation of a Government-owned research or production facility; or

(ii) For coordinating and directing the work of others. In exceptional circumstances the contractor may acquire greater rights than a nonexclusive license at the time of contracting where the head of the department or agency certifies that such action will best serve

the public interest. Greater rights may also be acquired by the contractor after the invention has been identified where the head of the department or agency determines that the acquisition of such greater rights is consistent with the intent of this paragraph (a) and is either a necessary incentive to call forth private risk capital and expense to bring the invention to the point of practical application or that the Government's contribution to the invention is small compared to that of the contractor. Where an identified invention made in the course of or under the contract is not a primary object of the contract, greater rights may also be acquired by the contractor under the criteria of (c), below.

(b) In other situations, where the purpose of the contract is to build upon existing knowledge or technology to develop information, products, processes, or methods for use by the Government, and the work called for by the contract is in a field of technology in which the contractor has acquired technical competence (demonstrated by factors such as know-how, experience, and patent position) directly related to an area in which the contractor has an established nongovernmental commercial position, the contractor shall normally acquire the principal or exclusive rights throughout the world in and to any resulting inventions.

(c) Where the commercial interests of the contractor are not sufficiently established to be covered by the criteria specified in (b), above, the determination of rights shall be made by the agency after the invention has been identified, in a manner deemed most likely to serve the public interest as expressed in this policy, taking particularly into account the intentions of the contractor to bring the invention to a point of commercial application and the guidelines of (a), above, provided that the agency may prescribe by regulation special situations where the public interest in the availability of the inventions would best be served by permitting the contractor to acquire at the time of contracting greater rights than a nonexclusive license.

(d) In the situations specified in (b) and (c) of this § 1–9.107–3, when two or more potential contractors are judged to have presented proposals of equivalent merit, willingness to grant the Government principal or exclusive rights in resulting inventions will be an additional factor in the evaluation of the proposals. In no event will contractors be asked to state their willingness to grant the Government principal or exclusive patent rights prior to a determination that proposals of equivalent merit have been presented.

(e) Whenever the principal or exclusive rights in an invention remain in the contractor, the Government shall normally acquire:

(1) At least a nonexclusive, nontransferable, paid-up license to make, use, and sell the invention throughout the world by or on behalf of the Government of the United States (including any Government agency) and States and domestic municipal governments, unless the agency head or his designee determines that it would not be in the public interest to acquire the license for the States and domestic municipal governments; and

(2) The right to sublicense any foreign government pursuant to any existing or future treaty or agreement if the agency head or his designee determines it would be in the national interest to acquire the right; and

(3) The principal or exclusive rights to the invention in any country in which the contractor does not elect to secure a patent.

(f) Whenever the principal or exclusive rights in an invention are acquired by the Government, there may be reserved to the contractor a revocable or irrevocable, nonexclusive, royalty-free license for the practice of the invention throughout the world; an agency may reserve the right to revoke such license so that it might grant an exclusive license when it determines that some degree of exclusivity may be necessary to encourage further development and commercialization of the invention. Where the Government has a right to acquire the principal or exclusive rights to an invention and does not elect to secure a patent in a foreign country, the Government may permit the contractor to acquire such rights in any foreign country in which he elects to secure a patent, subject to the Government's rights set forth in (e) of this § 1–9.107–3.

(g) Nothing in this subpart shall be construed to confer upon any person any immunity from the antitrust laws or from a charge of patent misuse, and the acquisition and use of rights pursuant to this subpart shall not be immunized from the operation of State or Federal law by reason of the source of the grant of such rights.

§ 1–9.107–4 Procedures.

(a) *Selection of Patent Rights clause.*—(1) Whenever a contract which is to be performed in the United States, its possessions, or Puerto Rico has as a purpose the conduct of experimental, developmental, or research work, the agency shall apply the policy in § 1–9.107–3 to the contracting situation and shall include in the contract a Patent Rights clause from § 1–9.107–5 or § 1–9.107–6. The clauses in § 1–9.107–5 shall be used as appropriate in contracts with industrial concerns or in contracts with nonprofit organizations calling for developmental work. The clauses specified in § 1–9.107–5 or § 1–9.107–6 may be used in contracts calling for basic or applied research with nonprofit organizations. Solicitations shall provide offerors with an opportunity to show that the selected clause proposed for a contract is inappropriate for a particular procurement situation.

(2) The Patent Rights clause in § 1–9.107–5(a), except as otherwise provided in § 1–9.107–6(a), shall be used whenever the agency determines that the experimental, developmental, or research work to be performed under the contract falls within § 1–9.107–3(a). This clause provides the Government with the right to acquire title to inventions made in the course of or under the contract subject to the reservation of nonexclusive license rights to the contractor. The contractor may retain greater rights than a nonexclusive license after an invention has been identified if the agency determines that the criteria of § 1–9.109–6 are met. When the agency head or his duly authorized designee determines that exceptional circumstances exist as provided for in § 1–9.107–3(a), paragraphs (b) and (i) of the clause prescribed in § 1–9.107–5(a) may be appropriately modified to permit the contractor to retain greater rights than a nonexclusive license concerning all or specific inventions.

(3) The Patents Rights clause in § 1–9.107–5(b) shall be used whenever the agency determines that the experimental, developmental, or research work to be performed under the contract does not come within § 1–9.107–3(a) but is within § 1–9.107–3(b). This clause provides the contractor with the option to retain title to any inventions resulting from his contract subject to the reservation of certain rights in the Government.

(4) The Patent Rights clause in § 1–9.107–5(c), except as otherwise provided in § 1–9.107–6(b), shall be used whenever the agency determines that the experimental, developmental, or research work to be performed under the contract does not come within §§ 1–9.107–3 (a) or (b), but is within § 1–9.107–3(c). The clause in § 1–9.107–5(c) provides that the determination of rights in inventions resulting from the contract shall be made by the agency after an invention has been identified. When the agency determines pursuant to its regulations that a special situation exists, paragraphs (b) and (i) of the clause prescribed in § 1–9.107–5(c) may be modified to permit the contractor to retain greater rights than a nonexclusive license.

(5) A short form Patent Rights clause in § 1–9.107–6 (a) or (b) may be used by the agency instead of the clause in § 1–9.107–5 (a) or (c), respectively, where the contract calls for basic or applied research and the contractor is a nonprofit organization for other than the operation of a Government-owned research or production facility. These clauses are not appropriate for use where the agency head determines to grant greater rights upon a finding that exceptional circumstances as provided for in § 1–9.107–3(a) are present or where the contract falls within the special situations criteria of § 1–9.107–3(c). In either event, a Patent Rights clause in § 1–9.107–5, appropriately modified, shall be used.

(b) *Record of decisions.* Agencies shall record the basis for the following actions: (1) selection of a Patent Rights clause; (2) finding of exceptional circumstances in § 1–9.107–3(a) or of special situations in § 1–9.107–3(c); (3) greater rights determinations pursuant to § 1–9.109–6; and (4) detreminations under §§ 1–9.107–4(c) and (d).

(c) *License for the Government, States, and municipal governments.* The

policy set forth in § 1–9.107–3(e) provides that the Government shall normally acquire a paid-up license in any invention resulting from the contract for the Government, States, and municipal governments. Paragraph (c)(1) in the Patent Rights clauses in § 1–9.107–5 sets forth such a license. When the agency determines that it would not be in the public interest in a particular contracting situation to acquire a license for the Government of the scope in paragraph (c)(1), this paragraph may be appropriately modified. The agency head or his duly authorized designee may determine at the time of contracting that it would not be in the public interest to acquire such a license for States and municipal governments or may reserve the right to make this determination after the invention has been identified. When the determination is made or the right to make the determination is reserved, paragraph (c)(1) of the Patent Rights clauses in § 1–9.107–5 shall be replaced with the appropriate paragraph in § 1–9.107–5(d).

(d) *Right to sublicense foreign governments.* Paragraph (c) of the Patent Rights clauses in § 1–9.107–5 does not provide the Government with the right to grant a sublicense in any inventions resulting from the contract to any foreign government pursuant to any treaty or agreement. The agency head or his duly authorized designee may determine at the time of contracting that it would be in the national interest to acquire this right, or he may reserve the right to make a determination after the invention has been identified. When the agency head makes or reserves the right to make this determination, the appropriate sentence in § 1–9.107–5(e) shall be included as part of paragraph (c) in the selected Patent Rights clauses of § 1–9.107–5.

(e) *Minimum rights to contractor.* The Patent Rights clauses of § 1–9.107–5 specify the minimum rights to be obtained by the contractor in any inventions made in the course of or under the contract. When the agency determines that the contractor may reserve:

(1) A *revocable,* nonexclusive, royalty-free license in the inventions, paragraph (d) of § 1–9.107–5(a) shall be included in the selected Patent Rights clause in § 1–9.107–5;

(2) A *revocable,* nonexclusive, royalty-free license in the inventions only upon request by the contractor for such a license, paragraph (d) of the Patent Rights clauses in § 1–9.107–5 shall be replaced with paragraph (d) in § 1–9.107–5(f);

(3) An *irrevocable,* nonexclusive, royalty-free license in the inventions, paragraph (d) of the Patent Rights clauses in § 1–9.107–5 shall be replaced with paragraph (d) in § 1–9.107–5(g); and

(4) An *irrevocable,* nonexclusive, royalty-free license in inventions constructively reduced to practice prior to the effective date of the contract, paragraph (d)(4) of § 1–9.107–5(h) shall be added to the Patent Rights clauses in § 1–9.107–5.

(f) *Subcontracts.* (1) The policy expressed in § 1–9.107–3 is applicable to prime contracts and to subcontracts regardless of tier. The appropriate Patent Rights clause prescribed by this subpart shall be included in all subcontracts having as a purpose the conduct of experimental, developmental, or research work. In general, the Patent Rights clause in the prime contract with the exception of the withholding provision will be appropriate for inclusion in such subcontracts. Whenever the prime contractor or a subcontractor considers the inclusion of the Patent Rights clause of the prime contract in a subcontract to be inconsistent with the policy expressed in § 1–9.107–3, or a subcontractor refuses to accept a Patent Rights clause in his subcontract, the matter shall be referred to the agency contracting officer for resolution prior to the award of the subcontract. Upon such referral, the same considerations and procedures followed by the contracting officer in selecting the Patent Rights clause included in the prime contract shall be used in selecting the Patent Rights clause to be included in the subcontract.

(2) Contractors shall not use their ability to award subcontracts as economic leverage to acquire rights for themselves in the inventions resulting from subcontracts.

(g) *Publication of invention disclosures.* The Patent Rights clauses of § 1–9.107–5 specify in paragraph (e)(4) that the Government may duplicate and disclose invention disclosures reported under the contract. However, the publication of the information in an invention disclosure by any party before the filing of a patent application may create a bar to the filing of foreign patent applications. The agency may restrict the publication of such information by the contractor in order to protect the interests of the Government or the contractor in obtaining foreign patents by adding the provisions of § 1–9.107–5(i)(2) to paragraph (e)(4). Where the contractor has been authorized to file foreign patent applications, the agency may desire to restrict its publication of the information in the related invention disclosure in order to protect the filing of such foreign applications by the contractor. In this event, the sentence in § 1–9.107–5(i)(1) should be added to paragraph (e)(4) of the Patent Rights clauses in § 1–9.107–5.

(h) *Deviations.* Any departures from the policy, procedures, and clauses of this subpart shall be subject to the provisions of § 1–1.009.

§ 1–9.107–5 Clauses for domestic contracts (long form).

(a) *Patent Rights clause—Option in the Government.* When the agency has determined that a contract falls within § 1–9.107–4(a)(2), the following clause shall be included in the contract.

PATENT RIGHTS—OPTION IN THE GOVERNMENT

(a) *Definitions.* (1) "Subject Invention" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(2) "Contract" means any contract, agreement, grant, or other arrangement, or subcontract entered into with or for the benefit of the Government where a purpose of the contract is the conduct of experimental, developmental, or research work.

(3) "States and domestic municipal governments" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and any political subdivision and agencies thereof.

(4) "Government agency" includes an executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America.

(5) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(b) *Disposition of principal rights.* (1) *Assignment to the Government.* The Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to each Subject Invention, except to the extent that rights are obtained by the Contractor under paragraphs (b)(2) and (d) of this clause.

(2) *Greater rights determination.* The Contractor or the employee-inventor with authorization of the Contractor may retain greater rights than the nonexclusive license provided in paragraph (d) of this clause in accordance with the procedure and criteria of 41 CFR 1–9.109–6. A request for determination whether the Contractor or the employee-inventor is entitled to such greater rights must be submitted to the Contracting Officer at the time of the first disclosure of the invention pursuant to paragraph (e)(2)(i) of this clause, or not later than 3 months thereafter, or such longer period as may be authorized by the Contracting Officer for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in 41 CFR 1–9.109–6. Each determination of greater rights under this contract normally shall be subject to paragraph (c) this clause and to the reservations and conditions deemed to be appropriate by the agency.

(c) *Minimum rights granted to the Government.* With respect to each Subject Invention to which the Contractor retains principal or exclusive rights, the Contractor:

(1) Hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States (including any Government agency) and States and domestic municipal governments;

(2) Agrees to grant to responsible applicants, upon request of the Government, a license on terms that are reasonable under the circumstances;

(i) Unless the Contractor, his licensee, or his assignee demonstrates to the Government that effective steps have been taken within 3 years after a patent issues on such invention to bring the invention to the point of practical application, or that the invention

has been made available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why the principal or exclusive rights should be retained for a further period of time; or

(ii) To the extent that the invention is required for public use by governmental regulations or as may be necessary to fulfill health or safety needs, or for other public purposes stipulated in this contract.

(3) Shall submit written reports at reasonable intervals upon request of the Government during the term of the patent on the Subject Invention regarding:

(i) The commercial use that is being made or is intended to be made of the invention; and

(ii) The steps taken by the Contractor or his transferee to bring the invention to the point of practical application or to make the invention available for licensing.

(4) Agrees to refund any amounts received as royalty charges on any Subject Invention in procurements for or on behalf of the Government and to provide for that refund in any instrument transferring rights to any party in the invention; and

(5) Agrees to provide for the Government's paid-up license pursuant to paragraph (c) (1) of this clause in any instrument transferring rights in a Subject Invention and to provide for the granting of licenses as required by (2) of this clause, and for the reporting of utilization information as required by paragraph (c) (3) of this clause whenever the instrument transfers principal or exclusive rights in any Subject Invention.

(d) *Minimum rights to the Contractor.* (1) For each Subject Invention upon which the Government files patent applications, a *revocable*, nonexclusive, paid-up license shall be reserved to the Contractor for the practice of that invention throughout the United States, its territories and possessions. Puerto Rico, the District of Columbia, and in any foreign country where the Government files a patent application. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be assignable only with approval of the agency except to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's nonexclusive license reserved pursuant to paragraph (d) (1) of this clause may be revoked or modified by the agency, either in whole or in part, as to the United States, its territories and possessions, Puerto Rico, and the District of Columbia to the extent necessary to achieve expeditious practical application of the Subject Invention under 41 CFR 101-4.103-3 pursuant to an application for exclusive license submitted in accordance with 41 CFR 101-4.104-3. This license shall not be revoked in the field of use and/or geographical areas in which the Contractor has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public. The Contractor's nonexclusive license in any foreign country reserved pursuant to paragraph (d) (1) of this clause may be revoked or modified, either in whole or in part, in the discretion of the agency to the extent the Contractor or his domestic subsidiaries or affiliates have failed to achieve the practical application of the invention in that foreign country.

(3) Before modification or revocation of the license, pursuant to paragraph (d) (2) of this clause, the agency shall furnish the Contractor a written notice of its intention to modify or revoke the license, and the Contractor shall be allowed 30 days after the notice to show cause why the license should not be modified or revoked. The Contractor shall have the right to appeal, in accordance with procedures prescribed by the agency, any decision concerning the modification or revocation of his license.

(e) *Invention identification, disclosures, and reports.* (1) The Contractor shall establish and maintain active and effective procedures to ensure that Subject Inventions are promptly identified. These procedures shall include the maintenance of laboratory notebooks and any other records that are reasonably necessary to document the conception and/or the first actual reduction to practice of inventions resulting from this contract, and records which show that the procedures for identifying and disclosing the inventions are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of these procedures so that he may evaluate and determine their effectiveness.

(2) The Contractor shall furnish the Contracting Officer:

(i) A complete technical disclosure for each Subject Invention within 6 months after conception or first actual reduction to practice whichever occurs first in the course of or under the contract, but in any event prior to any on sale, public use, or publication of such invention known to the Contractor. The disclosure shall identify the contract and inventor and be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and, to the extent known, the physical, chemical, biological, or eelctrical characteristics of the invention;

(ii) Interim reports[1] at least every 12 months from the date of the contract certifying that:

(A) The Contractor's procedures for identifying and disclosing Subject Inventions as required by this paragraph (e) have been followed throughout the reporting period; and

(B) All Subject Inventions have been disclosed or that there are no such inventions; and

(iii) An acceptable final report[1] within 3 months after completion of the contract work, listing all Subject Inventions or certifying that there were no such inventions.

(3) The Contractor shall obtain patent agreements to effectuate the provisions of this clause from all persons in his employ who perform any part of the work under this contract except clerical and manual labor personnel.

(4) The Contractor agrees that the Government may duplicate and disclose Subject Invention disclosures and all other reports and papers required to be furnished pursuant to this clause.

(f) *Forfeiture of rights in unreported Subject Inventions.* (1) The Contractor shall forfeit to the Government all rights on any Subject Invention which he fails to report to the Contracting Officer at or prior to the time he:

(i) Files or causes to be filed a United States or foreign application thereon; or

(ii) Submits the final report required by paragraph (e) (2) (iii) of this clause, whichever is later; except that the Contractor shall not forfeit rights in a Subject Invention if, within the time specified in (i) or (ii) of this paragraph (f), the Contractor:

(A) Prepared a written decision based upon a review of the record that the invention was neither conceived nor first actually reduced to practice in the course of or under the contract; or

(B) Contending that the invention is not a Subject Invention, he nevertheless discloses the invention and all facts pertinent to his contention to the Contracting Officer; or

(C) Establishes that the failure to disclose did not result from his fault or negligence.

(2) Pending written assignment of the patent applications and patents on a Subject Invention determined (such determination to be a final decision under the Disputes clause) by the Contracting Officer to be forfeited, the Contractor shall be deemed to hold the invention and the patent applications and patents pertaining thereto in trust for the Government. The forfeiture provision of this paragraph (f) shall be in addition to and shall not supersede other rights and remedies which the Government may have with respect to Subject Inventions.

(g) *Examination of records relating to inventions.* (1) The Contracting Officer or his authorized representative until the expiration of 3 years after final payment under this contract shall have the right to examine any books, records, documents, and other supporting data of the Contractor which the Contracting Officer reasonably deems pertinent to the discovery or identification of Subject Inventions or to determine compliance with the requirements of this clause.

(2) The Contracting Officer shall have the right to review all records and documents of the Contractor relating to the conception or first actual reduction of inventions to determine whether any such inventions are Subject Inventions if the Contractor refuses or fails to:

(i) Establish the procedures of paragraph (e) (1) of this clause; or

(ii) Maintain or follow such procedures; or

(iii) Correct or eliminate any material deficiency in the procedures within thirty (30) days after the Contracting Officer notifies the Contractor of such a deficiency.

(h) *Withholding of payment.* (1) Any time before final payment of the amount of this contract, the Contracting Officer may, if he deems such action warranted, withhold payment until a reserve not exceeding $50,000 or 5 percent of the amount of this contract, whichever is less, shall have been set aside if in his opinion the Contractor fails to:

(i) Establish and maintain effective procedures for identifying and disclosing Subject Inventions pursuant to paragraph (e) (1) of this clause; or

(ii) Disclose any Subject Invention pursuant to paragraph (e) (2) (i) of this clause; or

(iii) Deliver the interim reports pursuant to paragraph (e) (2) (ii) of this clause; or

(iv) Provide the information regarding subcontracts pursuant to paragraph (i) (5) of this clause.

The reserve or balance shall be retained until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(2) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of Subject Inventions required by paragraph (e) (2) (i) of this clause and the final report required by (e) (2) (iii) of this clause.

(3) The Contracting Officer may, in his discretion, decrease or increase the sums withheld up to the maximum authorized above. If the Contractor is a nonprofit or-

[1] Agency may specify form.

ganization the maximum amount that may be withheld under this paragraph shall not exceed $50,000 or 1 percent of the amount of this contract whichever is less. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or subsequent payment thereof shall not be construed as a waiver of any rights accruing to the Government under this contract.

(i) *Subcontracts.* (1) For the purpose of this paragraph the term "Contractor" means the party awarding a subcontract and the term "Subcontractor" means the party being awarded a subcontract, regardless of tier.

(2) Unless otherwise authorized or directed by the Government Contracting Officer, the Contractor shall include this Patent Rights clause except paragraph (h) of this clause modified to identify the parties in any subcontract hereunder if a purpose of the subcontract is the conduct of experimental, developmental, or research work. In the event of refusal by a Subcontractor to accept this clause, or if in the opinion of the Contractor this clause is inconsistent with the policy set forth in 41 CFR 1-9.107-3, the Contractor:

(i) Shall promptly submit written notice to the Government Contracting Officer setting forth reasons for the Subcontractor's refusal and other pertinent information which may expedite disposition of the matter; and

(ii) Shall not proceed with the subcontract without the written authorization of the Government Contracting Officer.

(3) The Contractor shall not, in any subcontract or by using such a subcontract as consideration therefor, acquire any rights in his Subcontractor's Subject Invention for his own use (as distinguished from such rights as may be required solely to fulfill his contract obligations to the Government in the performance of this contract).

(4) All invention disclosures, reports, instruments, and other information required to be furnished by the Subcontractor to the Government Contracting Officer under the provisions of a Patent Rights clause in any subcontract hereunder may, in the discretion of the Government Contracting Officer, be furnished to the Contractor for transmission to the Government Contracting Officer.

(5) The Contractor shall promptly notify the Government Contracting Officer in writing upon the award of any subcontract containing a Patent Rights clause by identifying the Subcontractor, the work to be performed under the subcontract, the dates of award, and estimated completion. Upon request of the Government Contracting Officer, the Contractor shall furnish a copy of the subcontract. If there are no subcontracts containing Patent Rights clauses, a negative report shall be included in the final report submitted pursuant to paragraph (e) (2) (iii) of this clause.

(6) The Contractor shall exert his best effort to identify all Subject Inventions of the Subcontractor and shall notify the Government Contracting Officer promptly upon the identification of the inventions.

(7) It is understood that the Government is a third party beneficiary of any subcontract clause granting rights to the Government in Subject Inventions, and the Contractor hereby assigns to the Government all rights that he would have to enforce the Subcontractor's obligations for the benefit of the Government with respect to Subject Inventions. The Contractor shall not be obligated to enforce the agreements of any Subcontractor hereunder relating to the obligations of the Subcontractor to the Government in regard to Subject Inventions.

(b) *Patent Rights clause—Option in the Contractor.* When the agency has determined that a contract falls within § 1-9.107-4(a) (3), the Patent Rights clause in § 1-9.107-5(a) shall be included in the contract, except that the name of the clause shall be changed to "Patent Rights—Option in the Contractor," paragraph (b) of that clause shall be replaced by the following paragraph (b), and the following paragraphs (j) and (k) shall be added:

(b) *Disposition of principal rights.* (1) The Contractor may retain the entire right, title, and interest throughout the world or in any country thereof in and to each Subject Invention disclosed pursuant to paragraph (e) (2) (i) of this clause, subject to the rights obtained by the Government in paragraph (c) of this clause. The Contractor shall include with each Subject Invention disclosure an election as to whether he will retain the entire right, title, and interest in the invention throughout the world or any country thereof.

(2) Subject to the license specified in paragraph (d) of this clause, the Contractor agrees to convey to the Government, upon request, the entire domestic right, title, and interest in any Subject Invention when the Contractor:

(i) Does not elect under paragraph (b) (1) of this clause to retain such rights; or

(ii) Fails to have a United States patent application filed on the invention in accordance with paragraph (j) of this clause, or decides not to continue prosecution of such application; or

(iii) At any time, no longer desires to retain title.

(3) Subject to the license specified in paragraph (d) of this clause, the Contractor agrees to convey to the Government upon request the entire right, title, and interest in any Subject Invention in any foreign country if the Contractor:

(i) Does not elect under paragraph (b) (1) of this clause to retain such rights in the country; or

(ii) Fails to have a patent application filed in the country on the invention in accordance with paragraph (k) of this clause, or decides not to continue prosecution or to pay any maintenance fees covering the invention. In such an event, the Contractor shall notify the Contracting Officer not less than 60 days before the expiration period for any action required by the foreign patent office.

(4) A conveyance requested pursuant to paragraph (b) (2) or (3) of this clause shall be made by delivering to the Contracting Officer duly executed instruments (prepared by the Government) and such other papers as are deemed necessary to vest in the Government the entire right, title, and interest to enable the Government to apply for, prosecute patent applications covering the invention in this or the foreign country, respectively, or otherwise establish its ownership in the invention.

(j) *Filing of domestic patent application.* (1) With respect to each Subject Invention in which the Contractor elects to retain domestic rights pursuant to paragraph (b) of this clause, the Contractor shall have a domestic patent application filed within 6 months after submission of the invention disclosure pursuant to paragraph (e) (2) (i) of this clause or such longer period as may be approved by the Contracting Officer for good cause shown in writing by the Contractor. With respect to the invention, the Contractor shall promptly notify the Contracting Officer of any decision not to file an application.

(2) For each Subject Invention on which a patent application is filed by or on behalf of the Contractor, the Contractor shall:

(i) Within 2 months after the filing or within 2 months after submission of the invention disclosure if the patent application previously has been filed, deliver to the Contracting Officer a copy of the application as filed including the filing date and serial number;

(ii) Include the following statement in the second paragraph of the specification of the application and any patents issued on a Subject Invention, "The Government has rights in this invention pursuant to Contract No. ------- (or Grant No. -------) awarded by (identify the agency).";

(iii) Within 6 months after filing the application or within 6 months after submitting the invention disclosure if the application has been filed previously, deliver to the Contracting Officer a duly approved, executed, and recorded instrument on a form specified by the Government fully confirmatory of all rights to which the Government is entitled, and provide the agency an irrevocable power to inspect and make copies of the patent application;

(iv) Provide the Contracting Officer with a copy of the patent within 2 months after a patent is issued on the application; and

(v) Not less than 30 days before the expiration of the response period for any action required by the Patent Office, notify the agency of any decision not to continue prosecution of the application and deliver to the Contracting Officer executed instruments granting the Government a power of attorney.

(3) For each Subject Invention in which the Contractor initially elects not to retain domestic rights, the Contractor shall inform the Contracting Officer promptly in writing of the date and identity of any on sale, public use, or publication of the invention which may constitute a statutory bar under 35 U.S.C. 102, which was authorized by or known to the Contractor, or any contemplated action of this nature.

(k) *Filing of foreign patent applications.* (1) With respect to each Subject Invention in which the Contractor elects to retain rights in a foreign country pursuant to paragraph (b) (1) of this clause, the Contractor shall have a patent application filed on the invention in that country, in accordance with applicable statutes and regulations, and within one of the following periods:

(i) Eight months from the date of a corresponding United States application filed by or on behalf of the Contractor; or if such an application is not filed, 6 months from the date the invention is submitted in a disclosure pursuant to paragraph (e) (2) (i) of this clause;

(ii) Six months from the date a license is granted by the Commissioner of Patents to file foreign applications where such filing has been prohibited by security reasons; or

(iii) Such longer period as may be approved by the Contracting Officer.

(2) The Contractor shall notify the Contracting Officer promptly of each foreign application filed and upon written request shall furnish an English translation of the foreign application without additional compensation.

(c) *Patent Rights clause—Deferred determination.* When the agency has determined that a contract falls within § 1-9.107-4(a) (4), the Patent Rights clause in § 1-9.107-5(a) shall be included in the contract, except that the name of the clause shall be changed to "Patent Rights—Deferred Determination" and paragraph (b) of that clause shall be replaced with the following paragraph (b):

(b) *Disposition of principal rights—*(1) *Determination.* The Government shall have the sole and exclusive power

to determine the disposition of the domestic and foreign rights in any Subject Invention. Where the agency determines that the Government shall have title to a Subject Invention, the Contractor agrees upon request of the Government to assign the entire right, title, and interest throughout the world in and to each Subject Invention except to the extent that greater rights are obtained under paragraphs (b) (2) and (d) of this clause.

(2) *Greater rights determinations.* The Contractor, or the employee-inventor with authorization of the Contractor, may retain greater rights than the nonexclusive license of this clause in accordance with the procedure and criteria of 41 CFR 1-9.109-6. A request for a determination of whether the Contractor or the employee-inventor is entitled to such greater rights must be submitted to the Contracting Officer at the time of first disclosure of the invention pursuant to paragraph (e) (2) (i) of this clause, or not later than 3 months thereafter or such longer period as may be authorized by the Contracting Officer for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in 41 CFR 1-9.109-6. Each determimnation of greater rights under this contract normally shall be subject to paragraph (c) of this clause and to the reservations and conditions deemed to be appropriate by the agency.

(d) *License rights of States and municipal governments.* (1) When the agency head or his duly authorized designee determines at the time of contracting that it would not be in the public interest to acquire a paid-up license in inventions made in the course of or under the contract for States and domestic municipal governments, paragraph (c) (1) of the Patent Rights clauses in § 1-9.107-5 shall be replaced with the following paragraphs (c) (1):

(1) Hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject invention throughout the world by or on behalf of the Government of the United States (including any Government agency).

(2) When the agency head or his duly authorized designee decides to reserve the right to make the determination that it would not be in the public interest to acquire a paid-up license in a Subject Invention for States and domestic municipal governments until after the invention has been identified, paragraph (c) (1) of the Patent Rights clauses in § 1-9.107-5 shall be replaced with the following paragraph (c) (1):

(1) Hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States (including any Government agency), States and domestic municipal governments, unless the agency head determines after the invention has been identified that it would not be in the public interest to acquire the license for States and domestic municipal governments.

(e) *Right to sublicense foreign governments.* (1) When the agency head or his duly authorized designee determines at the time of contracting that it would be in the national interest to acquire the right to sublicense foreign governments pursuant to any treaty or agreement, a sentence shall be added to the end of paragraph (c) (1) of the Patent Rights clauses in § 1-9.107-5 as follows:

This license shall include the right of the Government to sublicense foreign governments pursuant to any treaty or agreement with such foreign governments.

(2) When the agency head wishes to reserve the right to make the determination to sublicense foreign governments pursuant to any treaty or agreement until after the invention has been identified, a sentence shall be added to the end of paragraph (c) (1) of the Patent Rights clauses in § 1-9.107-5 as follows:

This license shall include the right of the Government to sublicense foreign governments pursuant to any treaty or agreement if the agency head determines after the invention has been identified that it would be in the national interest to acquire this right.

(f) *Minimum rights to contractor (upon request).* When the agency determines that the contractor may reserve a revocable, nonexclusive, royalty-free license in inventions made in the course of or under the contract, only upon a request by the contractor for such a license, paragraph (d) (1) of the clauses in § 1-9.107-5 shall be replaced with the following paragraph (d) (1):

(d) *Minimum rights to the Contractor.*

(1) For each Subject Invention upon which the Government files patent applications, the Government shall, upon request, reserve to the Contractor a revocable, nonexclusive, royalty-free license for the practice of the invention throughout the United States, its territories and possessions, Puerto Rico, and the District of Columbia, and if so requested, in any foreign country where the Government files a patent application. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be assignable only with approval of the agency except to the successor of that part of the Contractor's business to which the invention pertains.

(g) *Minimum rights to contractor (irrevocable).* When the agency determines that the contractor may reserve an irrevocable, nonexclusive, royalty-free license in the inventions resulting from the contract, paragraph (d) of the Patent Rights clauses of § 1-9.107-5 shall be replaced with the following paragraph (d):

(d) For each Subject Invention, upon which the Government files patent applications, the Contractor reserves an irrevocable, nonexclusive, royalty-free license for the practice of the invention throughout the United States, its territories and possessions, Puerto Rico, and the District of Columbia, and in any foreign country where the Government files a patent application. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. This license shall be assignable only with approval of the agency, except to the successor of that part of the Contractor's business to which the invention pertains.

(h) *Irrevocable license on Subject Inventions previously constructively reduced to practice.* When an agency decides that the contractor may reserve an irrevocable, nonexclusive and royalty-free license for practice in this country of each invention first actually reduced to practice under a contract which was conceived and constructively reduced to practice by the contractor prior to the effective date of execution of the contract, the following paragraph (d) (4) shall be added to paragraph (d) of the Patent Rights clauses in § 1-9.107-5:

(4) In addition to the provisions of paragraph (d) (1) of this clause, the Contractor reserves an irrevocable, nonexclusive and royalty-free license for practice throughout the United States, its territories and possessions, Puerto Rico, and the District of Columbia of each Subject Invention constructively reduced to practice by the Contractor prior to the effective date of this contract. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be assignable only with approval by the agency except to the successor of that part of the Contractor's business to which the invention pertains.

(i) *Publication of invention disclosures.* (1) When the agency determines that it is in the best interest to withhold the release or publication of information in an invention disclosure so that the contractor may file foreign patent applications on the invention, the following sentence shall be added to paragraph (e) (4) of the Patent Rights clauses in § 1-9.107-5:

If the Contractor is to file a foreign patent application on a Subject Invention, the Government agrees, upon a specific request of the Contractor, to use its best efforts to withhold publication of such invention disclosures until a patent application is filed thereon, but in no event shall the Government or its employees be liable for any publication thereof.

(2) When the agency determines to restrict the contractor's publication of invention disclosures prior to the filing of patent applications, the following paragraph (5) should be added to paragraph (e) of the Patent Rights clauses in § 1-9.107-5:

(5) In order to protect the patent interest of the Government or the Contractor, the Contractor shall obtain the approval of the Contracting Officer prior to the release or publication of the information in any Subject Invention disclosure by the Contractor or other parties acting on his behalf.

§ 1-9.107-6 Clauses for domestic contracts (short form).

(a) *Patent Rights clause—Option in the Government.* The following clause may be used instead of the clause of § 1-9.107-5(a) in contracts for basic and applied research with nonprofit organi-

zations for other than the operation of a Government-owned research or production facility.

PATENT RIGHTS—OPTIONS IN THE GOVERNMENT (SHORT FORM)

(a) *Definitions.* "Subject Invention" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(b) *Invention disclosures and reports.* (1) The Contractor shall furnish the Contracting Officer:

(i) A complete technical disclosure for each Subject Invention, within 6 months after conception or first actual reduction to practice, whichever occurs first in the course of or under the contract, but in any event prior to any on sale, public use, or publication of the invention known to the Contractor. The disclosure shall identify the contract and inventor, and shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and to the extent known, the physical, chemical, biological, or electrical characteristics of the invention;

(ii) Interim reports at least every 12 months from the date of the contract certifying that all Subject Inventions have been disclosed or that there are no such inventions; and

(iii) An acceptable final report,[1] within 3 months after completion of the contract work, listing all Subject Inventions or certifying that there were no such inventions.

(c) *Disposition of principal rights.* (1) The Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to each Subject Invention, except to the extent that rights are obained by the Contractor under paragraphs (c) (2) and (d) of this clause.

(2) The Contractor or the employee-inventor with authorization of the Contractor may retain greater rights than the nonexclusive license provided in paragraph (d) of this clause in accordance with the procedure and criteria of 41 CFR 1–9.109–6. A request for a determination of whether the Contractor or the employee-inventor is entitled to such greater rights must be submitted to the Contracting Officer at the time of the first disclosure of the invention pursuant to paragraph (b) (1) of this clause, or not later than 3 months thereafter or such longer period as may be authorized by the Contracting Officer for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in 41 CFR 1–9.109–6. Each determination of greater rights under this contract shall be subject to the provisions of paragraph (c) "Minimum rights granted to the Government" of the clause in 41 CFR 1–9.107–5(a), and to the reservations and conditions deemed appropriate by the agency.

(d) *Minimum rights to the Contractor.* For each Subject Invention upon which the Government files a patent application, the Government shall reserve to the Contractor upon request a revocable, nonexclusive, royalty-free license for the practice of the invention throughout the United States, its territories and possessions, Puerto Rico, and the District of Columbia, and in any foreign country where the Government files a patent application. Revocation shall be in accordance with the procedure of the clause in 41 CFR 1–9.107–5(d) (2) and (3).

(e) *Employee and Subcontractor agreements.* Unless otherwise authorized in writing by the Contracting Officer, the Contractor shall:

(1) Obtain patent agreements to effectuate the provisions of this clause from all persons who perform any part of the work under this contract except clerical and manual labor personnel;

(2) Insert in each subcontract having experimental, development, or research work as one of its purposes provisions making this clause applicable to the Subcontractor and his employees; and

(3) Promptly notify the Contracting Officer of the award of any such subcontract by providing him with a copy of the subcontract and any amendments thereto.

(b) *Patent Rights clause—Deferred determination (short form).* This clause may be used instead of the clause of § 1–9.107–5(c) in contracts for basic and applied research with nonprofit organizations. When the agency determines that a contract falls within § 1–9.107–3(c) and that a short form Patent Rights clause is to be used pursuant to § 1–9.107–4(a) (5), the Patent Rights clause set forth in § 1–9.107–6(a) shall be included in the contract except that the name of the clause shall be changed to "Patent Rights—Deferred Determination (short form)"; and paragraph (c) (1) of that clause shall be replaced by the following paragraph (c) (1):

(1) The Government shall have the sole and exclusive power to determine the disposition of the domestic and foreign rights in any Subject Invention. Where the agency determines that the Government shall have title, the Contractor agrees upon request of the Government to assign the entire right, title, and interest throughout the world in and to each Subject Invention except to the extent that rights are obtained by the Contractor under paragraphs (c) (2) and (d) of this clause.

§ 1–9.107–7 Clause for foreign contracts.

A Patent Rights clause shall be included in every contract having as one of its purposes the conduct of experimental, developmental, or research work which is to be performed outside the United States, its possessions, or Puerto Rico. The clauses authorized for domestic contracts in §§ 1–9.107–5 and 1–9.107–6 may be used or replaced by any other clause tailored to meet the requirements peculiar to the foreign procurement.

§ 1–9.108 [Reserved]

§ 1–9.109 Administration of Patent Rights clauses.

(a) Every effort should be made to realize for the Government and the public the benefit of inventions and discoveries resulting from Government experimental, research, and developmental contracts even if the inventions are an incidental product of the work. It is important that the Government and the contractor know and exercise their rights in inventions in order to ensure their expeditious availability to the public, to enable the Government, the contractor, and the public to avoid unnecessary payment of royalties, and to defend themselves against claims and suits for patent infringement. To attain these ends, contracts having Patent Rights clauses should be so administered that:

(1) Inventions are identified, disclosed, and reported as required by the contract clauses;

(2) The rights of the Government in such inventions are established;

(3) When appropriate, patent applications are timely filed and prosecuted by contractors or by the Government;

(4) The filing of patent applications is documented by formal instruments such as licenses or assignments; and

(5) Commercial utilization of such inventions is achieved.

(b) Each contractor shall establish and maintain effective procedures to ensure that inventions made under the contract are identified and that the Government's rights therein are established and protected. When it is determined after the award of a contract that the contractor or subcontractor may not have a clear understanding of the rights and obligations of the parties under a Patent Rights clause, a post award orientation conference or letter should be used to explain these rights and obligations. When reviewing a contractor's procedures, particular attention shall be given to ascertaining their effectiveness for identifying and disclosing inventions.

(c) Each Government agency shall undertake to ensure compliance by the contractor with the obligations of the Patent Rights clause of the contract. This effort should be directed primarily toward contracts and subcontracts which because of the nature of the work or the large dollar amount spent are likely to result in inventions which are significant in number or quality, and toward contracts and subcontracts about which there is reason to believe the contractors may not be complying with their contractual obligations. Other contracts and subcontracts should be spot checked when feasible. These followup activities may include:

(1) Reviewing technical reports submitted by the contractor;

(2) Checking sources for patents issued to the contractor in fields related to his Government contracts;

(3) Interviewing contractor personnel regarding work under the contract, observing the work on site, and inspecting laboratory notebooks and other records of the contractor related to work under the contract; and

(4) Interviewing agency technical personnel concerning novel developments in contracts under their cognizance.

(d) If the contractor operating under the Patent Rights clauses of § 1–9.107–5 fails to establish, maintain, or follow effective procedures for identifying and disclosing inventions as required by the Patent Rights clause or fails to correct any deficiency after notice thereof, the contracting officer may require the contractor to make available for examination

[1] Agency may specify a form.

all records and documents relating to inventions to enable an agency determination of whether there are such inventions, and may invoke the withholding of payments. Further, the contracting officer may invoke the withholding of payments if the contractor fails to disclose an invention deemed by the agency to be a Subject Invention.

(e) *Conveyance of invention rights to Government.* (1) Where the Government is entitled to the conveyance of the entire right, title, and interest in an invention pursuant to a contract, assignments are required from the inventor to the contractor and from the contractor to the Government or from the inventor to the Government with the consent of the contractor to establish clearly the chain of title from the inventor to the Government. The form of conveyance of title from the inventor to the contractor must be legally sufficient to convey the rights the contractor is required to convey to the Government. The optional form of assignment set forth in this § 1–9.109(e) (1) provides the complete chain of title in a single instrument and may be used to convey title to the Government. Alternatively, if separate assignments are used, both documents shall be forwarded simultaneously to the agency for recording.

ASSIGNMENT

Inventor(s): _____
Contractor: _____
Contract No.: _____
Application Title: _____
Contractor's Invention Docket No.: _____
Agency Invention Docket No.: _____
Serial No.: _____ Filing Date: _____
Date(s) Inventor(s) Executed Oath: _____

The undersigned Inventor(s), in recognition of his (their) obligation as employee(s) of the Contractor to assign inventions to the Contractor, and pursuant to the obligations of the Contractor to the Government under the above contract hereby assigns (assign) to the United States of America, as represented by the above-identified agency, all right, title, and interest in and to each invention disclosed and claimed in the above U.S. patent application and any substitution, division, continuation-in-part, or continuation of such patent application and any application for reissue of any patent resulting from such patent application, subject to the reservation of the following license, if any, to the Contractor: _____

Any license reserved to the Contractor shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be assignable only with approval of the agency except to the successor of that part of the Contractor's business to which such invention pertains.

The Inventor(s) further agrees (agree) to assist the Contractor and the Government upon request by furnishing any available information and documents, performing all acts, and doing all things which may be reasonably necessary to make this assignment effective.

The Contractor joins in and agrees to the foregoing assignment and except for the above reservation of a license, if any, relinquishes and assigns all rights, title, and interest in and to such inventions, and further agrees to furnish to the Government upon request any available information and documents necessary for the prosecution of the above-identified application for patent.

Signed this _____ day of _____, 19_____.

[SEAL] _____
(INVENTOR(S))

ATTEST: _____

_____

Signed this _____ day of _____, 19 _____

_____
(Contractor's Official and Title)

ATTEST: _____

_____

Accepted and agreed to on behalf of the Government.

_____
Agency Official)

_____
Date

(2) When the clause of § 1–9.107–5(b) is included in a contract or when a party obtains title to an identified invention and the right to file a patent application pursuant to a greater rights determination of § 1–9.109–6, the optional form of Confirmatory Instrument set forth in this § 1–9.109(e) (2) is approved for use by the contractor or by the party obtaining greater rights. The Patent Rights clause of § 1–9.107–5(b) requires the contractor to record this instrument in the Patent Assignment Register under 35 U.S.C. 261, to pay the recording fee, and to send the agency the recorded instrument which contains the U.S. Patent Office's recordation information. The Patent Office in recording this instrument places a record of the instrument in the Governmental Register maintained pursuant to Executive Order 9424 of February 18, 1944.

CONFIRMATORY INSTRUMENT

(License to the Government)

Application for: _____
(Title of invention)

Inventor(s): _____
Serial No.: _____ Contract No.: _____
Filing Date: _____ Contractor: _____

The invention identified above is a "Subject Invention" under Patent Rights clause,

_____
(Identify clause)

(_____) included in Contract No. _____
(date)

with _____
(specify agency)

This document is confirmatory of the paid-up license granted to the Government in this invention and patent application, and all other rights reserved to the Government by the referenced clause.

The Government is not estopped at any time from contesting the enforceability, validity, scope of, or title to the patent application identified above or any patent resulting therefrom. It is understood and agreed that this document does not preclude the Government from asserting rights under the provisions of said contract or of any other agreement between the Government and the Contractor, or any other rights of the Government with respect to the above-identified invention.

The Government is hereby granted an irrevocable power to inspect and make copies of the above-identified patent application.

Signed this _____ day of _____, 19_____

[SEAL]

_____
Applicant or Assignee
(Recorded)

By _____

ATTEST:

_____ _____
Business Address

(3) Assignments, licenses, confirmatory instruments, and other papers evidencing any rights of the Government in patents or patent applications shall be recorded in the Statutory Register and/or documented in the Governmental Register maintained by the U.S. Patent Office pursuant to Executive Order 9424, February 18, 1944. Such documents shall be sent to the Commissioner of Patents, Attention: Assignment Branch, Washington, D.C. 20231, and when the document is to be recorded in the Statutory Register, shall be accompanied by the required fee. When the document is recorded in the Statutory Register, the Patent Office places a copy of this recording in the Governmental Register. If the agency does not have the document recorded in the Statutory Register, it shall send two copies of the document to the Commissioner of Patents and request that these documents be filed in a designated section of the Governmental Register. The Governmental Register contains three sections: the secret, departmental, and public sections. The secret section is for applications bearing a security classification; the departmental section is for documents which are available to the Government and to the public only upon approval of the Government agency; and the public section permits access to the public.

§ 1–9.109–1—1–9.109–5 [Reserved]

§ 1–9.109–6 Greater rights determinations.

(a) *Request for greater domestic rights.* A contractor's request for a determination of greater domestic rights in an identified invention under the Patent Rights clauses of § 1–9.107–5 (a) or (c) or § 1–9.107–6 shall be submitted in writing to the agency.

(1) The request shall contain the following information:

(i) The prime contract number and the subcontract number, if applicable, under which the invention was made and an identification of the agency's contracting office;

(ii) A brief description of the invention or a copy of the invention disclosure;

(iii) The nature and extent of the rights desired;

(iv) A description of the development, risk capital and expense, and time required to bring the invention to the point of practical application;

(v) A statement of the contractor's plans and intentions to bring the inven-

tion to the point of practical application including:

(A) If further development is to be conducted by the contractor, a description of the facilities, personnel, and marketing outlets available for that purpose, and the extent to which such development is to be undertaken by the contractor or others on his behalf and/or;

(B) If he intends to license the invention, a brief description of the contractor's licensing program; and

(vi) A statement, where the invention falls within § 1-9.107-3(a), of the contractor's contribution when he contends that the Government's contribution to the invention is small compared to his contribution.

(2) Agencies may request additional information which would facilitate a determination of greater rights. Illustrations of such items of information include the following:

(i) The relationship of the invention to a principal purpose of the contract;

(ii) Any facts or information known to the contractor about whether the invention is intended to be developed by the Government for commercial use or is to be required for such use by governmental regulation;

(iii) The relationship, if any, of the invention to the public health, safety, or welfare; and

(iv) The field of science and technology of the invention and whether the Government has been the principal developer of this field.

(3) The contractor's employee(s) who made an invention in the course of or under a contract may also request, with proper authorization from his employer, a greater rights determination whenever the contract so provides. A copy of the authorization of the contractor-employer should be submitted with the employee-inventor's request for a greater rights determination. In submitting the information required for a greater rights determination as provided in § 1-9.109-6 (a)(1), and in applying the other provisions of this paragraph, the term contractor shall be understood to mean the employee-inventor.

(b) *Reimbursement of costs for filing patent applications.* In order to protect the interest of the Government and the party submitting a request for a greater rights determination, the filing of a United States patent application prior to the agency's determination is permissible. If an application on a Subject Invention is filed during the pendency of the determination, or within 60 days prior to the receipt of a request by the agency, the agency shall reimburse the party filing the application for the reasonable filing costs and for any patent prosecution that may have occurred as provided by § 1-15.205-26 or § 1-15.309-22. Whenever such costs are not covered in § 1-15.205-26 or § 1-15.309-22, the agency may nevertheless reimburse the party causing the application to be filed for the reasonable costs of such filing and for any patent prosecution that may have occurred, subject to the availability of funds provided:

(1) The agency determines that the party is not entitled to greater rights which are coextensive with the party's request; and

(2) Prior to reimbursement the party requesting such determination assigns the application to a Government agency and the agency accepts the assignment of the application.

(c) *Agency consideration.* The agency shall consider each request for a determination of greater domestic rights submitted within the period specified in the Patent Rights clause and shall make the determination in accordance with the criteria set out in paragraphs (d) or (e) of this section, as applicable.

(d) *Criteria for greater rights determination—Option in Government clause.* When the request for greater rights determination relates to an invention reported under the Patent Rights clause of § 1-9.107-5(a) or § 1-9.107-6(a):

(1) The requesting party may retain greater rights regardless of whether the invention is or is not a primary object of the contract when the agency finds that the invention comes within the criteria of § 1-9.107-3(a)(1) through (4); and

(i) The acquisition of the greater rights is a necessary incentive to call forth private risk capital and expense to bring the invention to the point of practical application; or

(ii) The Government's contribution to the invention is small compared to that of the contractor.

(2) The requesting party also may retain greater rights when the agency finds:

(i) The invention is not a primary object of the contract and does not come within the criteria of § 1-9.107-3(a)(1) through (4); and

(ii) The likelihood is that the invention will be more expeditiously developed to the point of practical application by the intentions and plans of the requesting party than by the activities of the Government.

(e) *Criteria for greater rights determination—Deferred clause.* When the request for the greater rights determination relates to an invention reported under the Patent Rights clause of § 1-9.107-5(c) or § 1-9.107-6(b),

(1) The requesting party may retain greater rights where the agency finds:

(i) The invention does not come within the criteria of § 1-9.107-3(a)(1) through (4); and

(ii) The likelihood is that the invention will be more expeditiously developed to the point of practical application by the intentions and plans of the requesting party than by the activities of the Government.

(2) The requesting party may retain greater rights when an agency finds that the invention comes within the criteria of § 1-9.107-3(a)(1) through (4); and

(i) The acquisition of the greater rights is a necessary incentive to call forth risk capital and expense to bring the invention to the point of practical application; or

(ii) The Government's contribution to the invention is small compared to that of the contractor.

(f) *Agency determination—Domestic rights.* (1) The agency shall notify the party requesting a greater rights determination of its decision. If the agency's greater rights determination is not coextensive with the party's request, the agency shall inform the party of the reasons on which the final action is based. The agency's greater rights determination is final and is not subject to the Disputes clause of the applicable contract.

(2) Where the determination includes a requirement that the requesting party have a domestic patent application filed on the invention, the following provisions shall apply:

(i) The application shall be filed within 6 months from the date of the determination, or such longer period as may be authorized by the agency for good cause shown in writing by the requesting party;

(ii) For each patent application filed, the party shall:

(A) Within 2 months after such filing or within 2 months after the date of a determination, if such patent application previously has been filed, delivery to the agency a copy of the application as filed, including the filing date and serial number;

(B) Include the following statement in the second paragraph of the specification of the application and any patent: "The Government has rights in this invention pursuant to Contract No. _____ (or Grant No. _____) awarded by (identify the agency).";

(C) Within 6 months after such filing, or within 6 months after submission of the invention disclosure if the patent application has been previously filed, deliver to the agency a duly approved, executed, and recorded instrument prepared by the Government fully confirmatory of all the rights to which the Government is entitled, and provide the agency an irrevocable power to inspect and make copies of the patent application;

(D) Provide the agency with a copy of the patent within 2 months after a patent is issued on the application; and

(E) Not less than 30 days before the expiration of the response period for any action required by the Patent Office, notify the agency of any decision not to continue prosecution of the application and deliver to the agency executed instruments granting the Government a power of attorney; and

(iii) If the applicant decides not to continue prosecution of the application, or no longer desires to retain title, he shall convey to the Government, upon request, his entire right, title, and interest in the invention, and to any corresponding patent application or patent. The conveyance shall be made by delivering to the agency duly executed instruments (prepared by the Government) and, if

applicable, such other papers as are deemed necessary to vest in the Government the entire right, title, and interest in the invention and any corresponding patent application, and to enable the Government to prosecute the application.

(3) The determination of greater rights, whether requested by the contractor or by the employee-inventor, shall be subject to the reservation of a license to the Government, and the licensing and the commercial use reporting requirements of paragraph (c) "Minimum rights granted to the Government," of the Patent Rights clauses of § 1–9.107–5. The determination normally shall also be subject to any other reservation or condition deemed to be appropriate by the agency.

(g) *Agency determination—Foreign rights.* (1) A request for a foreign rights determination in an invention under the Patent Rights clauses of either § 1–9.107–5 (a) or (c) or § 1–9.107–6 (a) or (b) may accompany a request for a determination of domestic rights of § 1–9.109–6(f), or may be submitted independently thereof. The request shall contain the following information:

(i) The prime contract number and the subcontract number, if applicable, under which the invention was made and an identification of the agency's contracting office;

(ii) A brief description of the invention or a copy of the invention disclosure;

(iii) The countries in which the requesting party intends to file a patent application; and

(iv) Other information required by the agency.

(2) If the Government determines not to file a patent application on a Subject Invention of the contractor in any foreign country, the agency may authorize the requesting party to file a patent application on the invention in such foreign country and to acquire the entire right, title, and interest therein if it determines such authorization to be in the public interest, subject to the license to the Government provided in paragraph (c) of the Patent Rights clause in § 1–9.107–5(a) or § 1–9.107–6(a).

(3) Where the determination includes a requirement that the requesting party file and prosecute a foreign patent application on the invention, the following provisions shall apply:

(i) The requesting party shall file and prosecute a patent application on the invention in (identify the foreign countries) in accordance with applicable statutes and regulations and within one of the following periods:

(A) Eight months from the date the corresponding United States patent application is filed by or on behalf of the requesting party; or if such an application is not filed, 6 months from the date of this agreement;

(B) Six months from the date a license is granted by the Commissioner of Patents to file foreign applications where such filing has been prohibited by security reasons; or

(C) Such longer period as may be approved by the agency.

(ii) The requesting party shall notify the agency promptly of each foreign application filed and upon written request of the agency shall furnish an English translation of the foreign application without additional compensation; and

(iii) If the requesting party files or causes to be filed a patent application on a Subject Invention in any foreign country, or if a patent is obtained on such application, the party shall notify the agency, not less than 60 days before the expiration period for any action required by the foreign patent office, of any decision not to continue prosecution of the application or not to pay any maintenance fee covering the invention, and within such period shall deliver to the agency:

(A) Executed instruments granting to the Government power of attorney in the application;

(B) An English translation of the application, if not previously provided, to the agency; and

(C) Upon request, a conveyance of the party's entire rights, title, and interest in the invention in the foreign country and to any corresponding patent application.

Comments by interested parties invited.—The original draft of this regulation was made available to Government agencies, industry associations, and others for purposes of review in May 1972. The evaluation of the comments received and the further analysis of the entire matter by the Implementation Subcommittee of the Committee on Government Patent Policy resulted in a great many changes in the regulation. In view of the magnitude of the changes, interested parties are invited to comment on this regulation in its present form on or before November 5, 1973. Comments should be submitted to the General Services Administration (AMC), Washington, D.C. 20405. The comments received will be evaluated in the interest of determining whether revisions are necessary and desirable prior to the mandatory effective date of the regulation.

Effective date.—This regulation is effective March 4, 1974, but may be observed earlier.

Dated August 29, 1973.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.73–18675 Filed 8–31–73;8:45 am]

[FPR Amdt. 115]

Labor Standards for Contracts Involving Construction

Correction

In FR Doc. 73–16281 appearing at page 21404 in the issue for Wednesday, August 8, 1973, in paragraph (a) of the clause in § 1–18.703–1(b), the word "third" in the line should read "half".

Title 49—Transportation

CHAPTER I—DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM–56, Amdt. 170–2, 171–22, 177–27, 178–23]

MISCELLANEOUS AMENDMENTS TO CHAPTER

The purpose of these amendments to the Hazardous Materials Regulations of the Department of Transportation is to change or delete certain obsolete or incorrect references, to correct certain editorial errors in § 172.5, and to correct the address of the Secretary, Hazardous Materals Regulations Board, and the Docket room.

Since these amendments concern editorial changes and corrections and impose no burden on any person, notice and public procedure thereon are considered unnecessary.

In consideration of the foregoing, 49 CFR Parts 170, 171, 177, and 178 are amended as follows:

PART 170—RULEMAKING PROCEDURES OF THE HAZARDOUS MATERIALS REGULATIONS BOARD

A. In § 170.1, paragraph (b) is amended to read as follows:

§ 170.1 Applicability.

* * * * *

(b) The Hazardous Materials Regulations Board, established by Department of Transportation Order 1120.10A, dated December 11, 1972 (hereinafter referred to as the "Board") is composed of the Assistant Secretary for Environment, Safety and Consumer Affairs as Chairman; and the Commandant, U.S. Coast Guard, Federal Aviation Administrator, Federal Highway Administrator, and Federal Railroad Administrator, or their designees, as members. The General Council of the Department is the legal adviser to the Board and the Director of the Office of Hazardous Materials is the Secretary of the Board.

* * * * *

B. In § 170.11, paragraph (b)(1) is amended to read as follows:

§ 170.11 Filing of petitions for rule making.

* * * * *

(b) * * *

(1) Be submitted, in duplicate, to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, Washington, D.C. 20590.

* * * * *

C. In § 170.13, the introductory text of paragraph (b) is amended to read as follows:

§ 170.13 Filing of petitions for special permits for waivers or exemptions.

* * * * *

(b) Each petition must be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, Washington, D.C. 20590, and contain the following information:

* * * * *

D. In § 170.35, the second sentence of paragraph (a) is amended to read as follows:

§ 170.35 Petition for rehearing or reconsideration of rule.

(a) * * * Such a petition must be transmitted, in duplicate, to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, Washington, D.C. 20590, at least 10 days before the effective date of the rule.* * *

* * * * *

PART 171—GENERAL INFORMATION AND REGULATIONS

In § 171.7, paragraph (b) is amended to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(b) All incorporated matter is available for inspection in the Docket Room, Room 6215F, of the Buzzards Point Building, Second and V Streets SW., Washington, D.C. 20590.

* * * * *

PART 172—LIST OF HAZARDOUS MATERIALS CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL MATERIALS SUBJECT TO PARTS 170–189 OF THIS SUBCHAPTER

In § 172.5 *List of hazardous materials*, paragraph (a) is amended as follows:

§ 172.5 List of hazardous materials.

(a) * * *

Article	Classed as—	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
Change				
Cartridge bags, empty, with black powder igniters.	Expl. C	No exemption, 173.106.	Expl. C	150 pounds.
Corrosive liquid, n.o.s	Cor	173.244,173.245, 173.245a	Corrosive	5 pints.
Diethylene glycol dinitrate	See § 173.51(d)			
1,1 difluoro 1-chloroethane. *See* Difluoromonochloroethane.				
Phosphorus pentasulfide	F.S	No exemption, 173.225.	F.S	11 pounds.

* * * * * * *

PART 177—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

A. In § 177.824, paragraph (b)(7) is amended to read as follows:

§ 177.824 Retesting and inspection of cargo tanks.

* * * * *

(b) * * *

(7) The entire vehicle shall be inspected for and comply with the Motor Carrier Safety Regulations, Part 393, Chapter III, of this title.

* * * * *

§§ 177.856, 177.858 and 177.860 [Amended]

B. In §§ 177.856(a), 177.858(a) and 177.860(a), reference to § 177.814 is amended to read § 177.807:

PART 178—SHIPPING CONTAINER SPECIFICATIONS

In § 178.337–10, the last sentence of paragraph (d) is amended to read as follows:

§ 178.337 Specification MC 331; cargo tanks constructed of steel, primarily for transportation of compressed gases as defined in the Compressed gas section.

§ 178.337–10 Protection of fittings.

* * * * *

(d) * * * The bumpers shall conform dimensionally to § 393.86, Chapter III of this title.

* * * * *

This amendment is effective September 30, 1973.

(Secs. 831–835, Title 18, United States Code, sec. 9, Department of Transportation Act, (49 U.S.C. 1657) Title VI, sec. 902(h), Federal Aviation Act of 1958 (49 U.S.C. 1421–1430, 1472(a), and 1655(c)).)

Issued in Washington, D.C., on August 27, 1973.

C. R. MELUGIN, Jr.,
Alternate Board Member, For the Federal Aviation Administration.

ROBERT A. KAYE,
Board Member, For the Federal Highway Administration.

MAC C. ROGERS,
Board Member, For the Federal Railroad Administration.

W. F. REA,
RADM, USCO, Board Member, For the United States Coast Guard.

[FR Doc.73–18527 Filed 8–31–73;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Rev. S.O. 1108; Amdt. 2]

PART 1033—CAR SERVICE

Reading Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 23d day of August 1973.

Upon further consideration of Revised Service Order No. 1108 (37 FR 28634; 38 FR 5876), and good cause appearing therefor:

It is ordered, That:

§ 1033.1108 Revised Service Order No. 1108 (Reading Company, Richardson Dilworth and Andrew L. Lewis, Jr., trustees, authorized to operate over tracks of Lehigh Valley Railroad Company, John F. Nash and Robert C. Haldeman, Trustees) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., January 15, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date.—This amendment shall become effective at 11:59 p.m., August 31, 1973.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.73–18659-Filed 8–31–73;8:45 am]

[S.O. 1122; Amdt. 1]

PART 1033—CAR SERVICE

Texas Export Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 23d day of August 1973.

Upon further consideration of Service Order No. 1122 (38 FR 4667), and good cause appearing therefor:

It is ordered, That:

§ 1033.1122 *Service Order No. 1122* (The Texas Export Railroad Company authorized to operate over tracks abandoned by Chicago, Rock Island and Pacific Railroad Company) be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., October 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date.—This amendment shall become effective at 11:59 p.m., August 31, 1973.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.73-18660 Filed 8-31-73;8:45 am]

[S.O. 1149]

PART 1033—CAR SERVICE

Fort Worth and Denver Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 29th day of August 1973.

It appearing, that the Fort Worth and Denver Railway Company (FWD) is unable to operate over its lines between Estelline, Texas, and Dimmitt, Texas; Silverton, Texas, and Lubbock, Texas, because of the collapse of a tunnel in the vicinity of Quitaque, Texas; that FWD operations over these lines can be accomplished by use of tracks of the Quanah, Acme & Pacific Railway Company (QAP) between Quanah, Texas, and Floydada, Texas, and over tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) between Floydada, Texas, and Plainview, Texas; that the QAP and the ATSF have consented to use of these tracks by the FWD; that operation by the FWD over the aforementioned tracks of the QAP and of the ATSF is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1149 Service Order No. 1149.

(a) *Fort Worth and Denver Railway Company authorized to operate over tracks of Quanah, Acme & Pacific Railway Company and over tracks of the Atchison, Topeka and Santa Fe Railway Company.*—The Fort Worth and Denver Railway Company (FWD) be, and it is hereby, authorized to operate over tracks of the Quanah, Acme & Pacific Railway Company (QAP) between Quanah, Texas, and Floydada, Texas, a distance of approximately 110.9 miles, and over tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) between Floydada, Texas, and Plainview, Texas, a distance of approximately 26.6 miles.

(b) *Application.*—The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.*—Inasmuch as this operation by the FWD over tracks of the QAP and of the ATSF is deemed to be due to carrier's disability, the rates applicable to traffic moved by the FWD over these tracks of the QAP and of the ATSF shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.*—This order shall become effective at 12:01 a.m., August 29, 1973.

(e) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., October 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-18658 Filed 8-31-73;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—BUREAU OF SPORTS FISHERIES AND WILDLIFE; FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 20—MIGRATORY BIRD HUNTING

Open Season, Bag Limits, and Possession of Certain Migratory Game Birds

Correction

In FR Doc. 73-15764, appearing at page 20456 in the issue for Wednesday, August 1, 1973, the dates in the table (§ 20.105(c)) on page 20460 labeled "Seasons in the Atlantic Flyway" for the states of Pennsylvania, Rhode Island, and South Carolina, should read "Sept. 1–Nov. 9, Sept. 10–Nov. 18, Sept. 14–Nov. 22" respectively.

PART 32—HUNTING

Quivira National Wildlife Refuge, Kansas

The following special regulation is issued and is effective on September 4, 1973.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

KANSAS

QUIVIRA NATIONAL WILDLIFE REFUGE

Public hunting of ducks, coots, gallinules, and mergansers on the Quivira National Wildlife Refuge, Kans., is permitted from October 6, 1973, through October 21, 1973, inclusive, and from November 10, 1973, through December 23, 1973, inclusive; geese, from October 6, 1973, through October 21, 1973, inclusive, and from November 3, 1973, through December 28, 1973, inclusive. Hunting of mourning doves, snipe, rails, crows, and woodcock is permitted when the respective seasons are concurrent with the waterfowl seasons as designated by the Kansas Forestry, Fish, and Game Commission. Hunting shall be only on the areas designated by signs as open to hunting. These open areas, comprising 7,990 acres, are delineated on maps available at refuge headquarters, Stafford, Kans., and from the Area Manager, Bureau of Sport Fisheries and Wildlife, Federal Building, Room 1748, 601 First 12th Street, Kansas City, Missouri 64106. Hunting shall begin accordance with all applicable State and Federal regulations covering the hunting of ducks, coots, gallinules, geese, mourning doves, snipes, rails, crows, and woodcock subject to the following special conditions:

(1) Blinds—only temporary blinds constructed above ground of natural vegetation are permitted.

(2) Dogs—not to exceed two per hunter may be used only for retrieving.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 28, 1973.

CHARLES R. DARLING,
Refuge Manager, Quivira National Wildlife Refuge, Stafford, Kansas.

AUGUST 27, 1973.

[FR Doc.73-15878 Filed 8-31-73;8:45 am]

PART 32—HUNTING

Quivira National Wildlife Refuge, Kansas

The following special regulation is issued and is effective on September 4, 1973.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

KANSAS

QUIVIRA NATIONAL WILDLIFE REFUGE

The public hunting of ring-necked pheasants, bobwhite, squirrel and rabbits on the Quivira National Wildlife Refuge, Kansas, is permitted only in the areas open to waterfowl hunting. These areas, comprising 7,990 acres, are delineated on maps available at refuge headquarters, Stafford, Kansas, and from the Area Manager, Bureau of Sport Fisheries and Wildlife, Federal Building, Room 1748, 601 East 12th Street, Kansas City, Missouri 64106. Hunting shall be in accordance with all applicable State regulations governing the hunting of ring-necked pheasants, bobwhite, squirrel and rabbits October 6, 1973, through October 21, 1973, inclusive, and November 3, 1973, through January 31, 1974, inclusive, subject to the following special conditions:

(1) The use of rifles is prohibited for taking squirrel and rabbits.

(2) The hunting of any species after sunset is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1974.

CHARLES R. DARLING,
Refuge Manager, Quivira National Wildlife Refuge, Stafford, Kansas.

AUGUST 27, 1973.

[FR Doc.73-18579 Filed 8-31-73;8:45 am]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS

Extension of Freeze on Retail Prices of Gasoline and No. 2-D Diesel Fuel

Section 150.355(b)(1), (b)(2), and (e) is amended as set forth below to reflect an extension of the freeze on retail prices of gasoline and No. 2-D diesel fuel and to establish the time when Phase IV regulations governing retail sales of these products take effect.

The amendments alter the dates from 11:59 p.m., local time, August 31, 1973, to 11:59 p.m., local time, September 7, 1973.

Recent court actions involving Phase IV petroleum regulations have understandably created some confusion over the status of Phase IV ceiling price and posting requirements for retail sales of gasoline and diesel fuel. This amendment extends the freeze for one week, to 11:59 p.m., local time, Friday, September 7, 1973, in order to give the nation's retail gasoline and diesel fuel dealers sufficient time to comply with Phase IV rules. This extension is designed, therefore, to provide for retailers of gasoline and No. 2-D diesel fuel additional time to make the computations necessary under the regulations, and to procure the required posting labels from the U.S. Postal Service.

Because the purpose of these regulations is to provide immediate guidance as to Cost of Living Council decisions, I find that publication in accordance with normal rule making procedure is impracticable and that good cause exists for making these regulations effective in less than 30 days. Interested persons may submit comments regarding these regulations. Communications should be addressed to the Office of General Counsel, Cost of Living Council, Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11695, 38 FR 1473, E.O. 11730, 38 FR 19345, Cost of Living Council Order No. 14, 38 FR 1489)

Issued in Washington, D.C., on August 30, 1973.

JOHN T. DUNLOP,
Director,
Cost of Living Council.

1. In § 150.355, paragraph (b)(1) and (2) and (e) are amended to read as follows:

§ 150.355 Retail sales of gasoline, No. 2-D diesel fuel and No. 2 heating oil.

* * * * *

(b) * * *

(1) Prior to 11:59 p.m., local time, September 7, 1973, no refiner-retailer, reseller-retailer, or retailer of gasoline, No. 2-D diesel fuel may charge a price with respect to a retail sale of any such item which exceeds the freeze price or other authorized price for such item established pursuant to the provisions of Part 140 of this chapter.

(2) Effective 11:59 p.m., local time, September 7, 1973, no refiner-retailer, reseller-retailer, or retailer of gasoline, or No. 2-D diesel fuel may charge a price with respect to a retail sale of any such item which exceeds the ceiling price for that item.

* * * * *

(e) *Posting.* No later than 11:59 p.m., local time, September 7, 1973, each refiner-retailer, or retailer of gasoline, or No. 2-D diesel fuel shall post the ceiling price in a prominent place on each pump used to dispense retail sales of gasoline or No. 2-D diesel fuel and the octane number for that gasoline. The ceiling price and octane number must be certified and posted in the form and manner prescribed by the Cost of Living Council.

[FR Doc.73-18714 Filed 8-30-73;12:32 pm]

PART 152—COST OF LIVING COUNCIL PHASE IV PAY REGULATIONS

Recodified Pay Rules for Phase IV

Correction

In FR Doc. 73-18703 appearing at page 23614 in the issue of Friday, August 31, 1973, the preamble to the document was inadvertently omitted. It should read as follows:

Part 152 is added to Title 6, Chapter I of the Code of Federal Regulations. The rules contained in Part 152 are basically the rules with respect to pay adjustments that were previously contained in Part 130. However, that part also contained the Phase III rules with respect to prices. Since the price regulations have been removed from Part 130 and are now set forth in Parts 140, 150, and 155, the pay rules have been republished as a matter of convenience and clarity as a new, separate part. In general, and except as specifically modified in Part 152, the Phase III pay regulations continue in effect in Phase IV without substantial modification. Certain changes have been made including the adoption of a proposed amendment to Part 130 published in the FEDERAL REGISTER on July 20, 1973, at 38 FR 19485, relating to the imposition of a prenotification requirement (proposed § 130.26).

Substantive changes.—Proposed § 130.26 has been recodified into two separate sections. Paragraphs (a) through (f)(1) of proposed § 130.26 have been incorporated into § 152.24 of the recodified regulations. Paragraph (f)(2) of proposed § 130.26, relating to required supplemental information, has been incorporated into § 152.5(b) as a rule applicable to all pay submissions made to the Council, except in the areas of food, executive compensation, and construction. Also, new § 152.5(a) adopts the rule that all pay submissions (except in executive compensation and construction and where otherwise provided in the regulations) are required to be made on the Council's Form PB-3 (or Optional Form PB-3A, for units containing fewer than 1,000 employees).

The recodified regulations also contain specific instructions on where to file certain submissions to the Council. Thus, members of the public are cautioned to use the specific post office box number appropriate to the particular submission if a box number has been so designated. The failure to use a proper box number could result in a submission not being considered received or timely filed. Specific box numbers have been designated in §§ 152.4(e), 152.14(d), 152.26, 152.74(a), 152.93, and 152.105(a).

It should be noted that the definition of "food," as set forth in § 152.2, differs from the definition of "food" for price control purposes, set forth in Parts 140 and 150, in that items produced or manufactured for animal ingestion are not considered "food" for wage control purposes.

Proposed § 130.34(d) (relating to pay adjustments affecting employees in the lumber industry) has not been incorporated into the recodified regulations.

The substance of the small business exemption with respect to pay adjustments in § 130.40 has been incorporated into § 152.41 of the recodified regulations. It should be noted, however, that dates which serve to provide measuring points under the regulation have been changed to conform to the comparable changes made in the Phase IV price regulations in Part 150. Because of the shift forward in the time period for determining applicability, a firm which qualified for the exemption in Phases II and III may not necessarily quality for the exemption as now formulated, as a result of a change in its circumstances, such as growth in employment or sales.

The exclusion from mandatory pay controls of the wages of employees of eating and drinking establishments in § 130.58(c) has been incorporated into § 152.72(c) of the recodified regulations with changes. One change makes clear that the exclusion applies as well to wages of employees who render administrative or support functions with respect to such eating and drinking establishments. Another change makes clear that the exclusion applies only to wages of employees of a firm which operates the eating or drinking establishment.

The reporting requirements with respect to nonunion construction employees and certain off-site and other employees in § 130.77(b)(1) have been incorporated in § 152.104(b) of the recodified regulations. A new optional Form CLC–32, that is presently available from the Council, is mentioned in the recodification. However, the new provision requires, in addition, a separate annual report from any nonunion contractor that employs 10 or more employees with respect to pay adjustments made to all on-site nonunion construction employees and on-site supervisory employees. This new annual report form is to be filed if a special report required by § 152.104(b)(3) is not otherwise due. The new annual report form is expected to be available in the near future. A new procedural rule has also been added in § 152.105(d) of the recodified regulations to provide that special reports required in § 152.104(b)(2)(iii) and (b)(3) are to be submitted on a craft or similar basis for each project or job site where the contractor is performing work, except job sites subject to Federal, State, or local prevailing wage laws. However, if the same wage rate is paid on more than one project, the nonunion contractor may submit a single report if he identifies each project or site covered by the report.

The rule with respect to fringe benefits for nonunion construction employees in § 130.79(e) has been incorporated in § 152.107(e) of the recodified regulations. A change has been made with respect to both included and qualified fringe benefits that permits exclusion of the secondary effect of increases in the straight-time hourly rate in the computation of such pay adjustments.

In the case of nonunion construction employees, § 152.107(f) contains the rule with respect to entry into a new labor market area. That rule has also been expanded to limit the wage rate that may be paid when a nonunion contractor establishes a new job, job classification, or position to the wage rate paid by a majority of contractors in the local labor market area for similar jobs, job classifications, or positions.

A new Subpart L of Part 152 has been added to implement during Phase IV the provisions of sections 208 and 209 of the Act, relating to violations, sanctions, fines, penalties, and other relief. Subpart L substantially follows the comparable provisions in Subpart D of Part 201 of the Pay Board's regulations in effect on January 10, 1973. However, certain modifications or changes have been made to adapt to a dual program of self-administration for most industries and mandatory controls for the food, health services, and construction industries. For example, during Phase II, it was a violation for any person to pay or to receive a wage or salary increase that was not authorized under the regulations in effect at that time. Section 152.13 permits increases in excess of the standard to be paid without the prior approval of the Council, under certain circumstances, as part of the voluntary control portion of Phase IV of the Economic Stabilization Program. Accordingly, it is not a violation of the Phase IV regulations to pay an increase that exceeds the standard in such cases unless the payment is made or continued to be made after the issuance by the Council of a temporary order pursuant to § 152.54 or a final order pursuant to § 152.57.

Other changes.—All substantive pay control provisions set forth in Part 130 can be identified by using the cross reference table in the Appendix to Part 152. In some cases the titles to the sections or subpart headings have been revised to conform to the changed format, and minor changes of a nonsubstantive nature have been incorporated in the text. For example, in § 130.40(a)(2)(i), the inapplicability of the small business exemption relates to both price and pay adjustments of a firm. However, in new § 152.41(a)(2)(i) the inapplicability of the exemption relates only to the pay adjustments of the firm, although the test for inapplicability is the annual sales or revenues of the firm.

Because the immediate implementation of Executive Order No. 11730 is required, and because the purpose of these regulations is to provide immediate guidance as to Cost of Living Council decisions, the Council finds that publication in accordance with normal rulemaking procedures is impracticable and that good cause exists for making these regulations effective in less than 30 days. Interested persons may submit comments regarding these regulations. Communications should be addressed to the Office of General Counsel, Cost of Living Council, Washington, D.L. 20508.

(Economic Stabilization Act of 1970, as amended, Public Law 92–210, 85 Stat. 743; Public Law 93–28, 87 Stat. 27; E.O. 11695, 38 F.R. 1473; E.O. 11730, 38 F.R. 19345; Cost of Living Council Order No 14, 38 F.R. 1489)

In consideration of the foregoing, Part 152 of Title 6 of the Code of Federal Regulations is added as set forth herein.

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 21]

FALCONRY PERMITS

Extension of Comment Period

On July 30, 1973, there was published in the FEDERAL REGISTER (38 FR 20264) a proposal to add a new § 21.28 *Falconry permits,* to Subpart C of Part 21. Comments were invited to August 31, 1973.

In order to provide the public with additional time in which to consider the proposal and submit comments thereon, the period for comments is extended to September 30, 1973.

CHARLES M. LOVELESS,
Acting Director, Bureau of Sport Fisheries and Wildlife.

AUGUST 30, 1973.

[FR Doc.73-18713 Filed 8-31-73;8:45 am]

National Park Service

[36 CFR Part 7]

SHENANDOAH NATIONAL PARK

Backcountry Camping

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 1–3) and by the Act of May 22, 1926 (44 Stat. 616, as amended; 16 U.S.C. 403), and the Act of August 19, 1937 (50 Stat. 700, as amended; 16 U.S.C. 403c–1), 245 DM–1 (34 F.R. 13879), as amended; National Park Service Order No. 77 (38 F.R. 7478), as amended; and Northeast Region Order No. 7 (37 F.R. 6325), it is proposed to add § 7.15(b) (c) (d) to Title 36 of the Code of Federal Regulations, as set forth below.

The purpose of these regulations is to designate, regulate, and control backcountry camping areas in Shenandoah National Park.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit comments, suggestions, or objections to the Superintendent, Shenandoah National Park, Luray, Virginia 22835, on or before October 4, 1973.

Paragraphs (b), (c), and (d) of § 7.15 are added as follows:

§ 7.15 Shenandoah National Park.

* * * * *

(b) *Backcountry camping.*—The Superintendent may designate areas within the park where persons may not camp overnight because of potential damage to park resources or disruption of other park uses, such areas to be marked on a map to be available in the Superintendent's office and at each ranger station. A person may camp overnight at any other location within the park, except:

(1) No person may camp outside of a designated automobile campground without first obtaining a backcountry camping permit from a Park Ranger;

(2) No person may camp with a group of more than seven (7) other persons outside of a designated automobile campground;

(3) No person may camp

(i) Within one-half mile and within sight of any automobile campground, lodge, restaurant, visitor center, picnic area, ranger station, administrative or maintenance area, or other park development or facility;

(ii) Within 250 yards and within sight of any paved park road or the park boundary;

(iii) Within sight of any trail or any sign which has been posted by park authorities to designate a no camping area; or

(iv) Within sight of a trail shelter or another camping party, provided, that backcountry campers may seek shelter at and sleep within or adjacent to trail shelters, with other camping groups, during periods of seasonally inclement weather when the protection and amenities of such shelter are deemed to be essential; and

(4) No person shall camp except at designated automobile campgrounds, more than two (2) consecutive nights at a single location. The term "location" shall mean that particular campsite and the surrounding area within a one thousand (1,000) foot radius of that campsite.

(c) *Fires.*—(1) No open fires may be kindled except in facilities provided in automobile campgrounds and picnic areas, and in facilities provided at trailside shelters.

(d) *Sanitation.*—(1) Possession of a full or partially filled discardable glass or metal food or beverage container, except one which is made of metal foil, sheet plastic, or paper is prohibited in backcountry camping areas. (2) Except at places provided therefor, no person in backcountry areas shall urinate or defecate within one hundred (100) feet of any trail or stream. All fecal material must be placed in a hole and be covered with at least three (3) inches of soil.

RAYMOND L. FREEMAN,
Associate Director.

[FR Doc.73-18581 Filed 8-31-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1030]

[Docket No. AO 361-A9]

MILK IN THE CHICAGO REGIONAL MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Chicago Regional marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by September 19, 1973. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Madison, Wisconsin, on June 6–7, 1973, pursuant to notice thereof issued May 22, 1973 (38 FR 13753).

The material issues on the record of the hearing relate to:

1. Time and method of payment for milk.
2. Charges on overdue accounts.
3. Definition of "exempt distributing plant."
4. Definition of a cooperative association as a handler with respect to milk of producers delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association.
5. Administrative and miscellaneous order changes.

(a) Exclusion of certain handlers' milk from the uniform price.

(b) Offset of payments due from a han-

dler against payments due to the handler.

(c) Miscellaneous or conforming changes.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Time and method of payment for milk.*—Provision should be made for partial payments by handlers to producers and cooperative associations for milk delivered during the first 15 days of the month. Partial payments to producers should be due on the 3rd day following the end of the month. Payment to cooperative associations should be due, for partial payments, on the first day after the month, and for final payment, on the 16th day after the month. Payments should be accompanied by a statement explaining the amount of payment, accounting for any deductions involved.

The order presently specifies that payments by a handler to producers for milk received during the month shall be made on or before the 18th day of the following month, or on such date to a cooperative association that requests payment for the milk of producers who have authorized the association to collect payment. Payments are also to be made on or before the 18th day after the month, at the uniform price, to a cooperative association that is a handler pursuant to § 1030.13(e) for milk moved from farms to pool plants of other handlers.

A proposal was made by two cooperative associations that would require handlers to make partial payments for producer milk delivered to them during the first 15 days of the month. The partial payments, at the Class II price for the previous month for milk of 3.5 percent butterfat, would be made by handlers to individual producers on or before the 3rd day after the end of the month during which the milk was delivered, and to cooperative associations on or before the first day after such month. Payments to cooperative associations, as proposed, would be for milk from producers for whom the cooperative is authorized to collect payment, for milk for which the cooperative association is a bulk tank handler pursuant to § 1030.13(e), and for milk delivered from pool plants operated by a cooperative association.

Final settlement to cooperatives as proposed would be two days before the date for payments to individual producers in order that the cooperatives would be able to pay their producers on the same date as required for producers not receiving payment through a cooperative.

A proposal also was made by five proprietary handlers that the order provide for partial payments to producers. They proposed, however, that the payments be made on the fifth day after the end of the month.

Another handler opposed partial payments on the basis that he would not necessarily receive payment from his customers by the date partial payments to producers would be due.

In this market the practice of making partial payments, or twice monthly payments, is not new even though such payments are not required by the order. The practice of making partial payments varies, however, among handlers and for producers delivering to a handler. Cooperative associations also, in some cases, make partial payments earlier than the regular date for final settlement.

Because there is an irregular pattern of partial or twice monthly payments there is a basis for dissatisfaction among producers. Some producers have been able to successfully negotiate for payments on this basis while others have not. The situation also results in advantage to some handlers over others insofar as handlers not making twice monthly payments have the use of the money involved to date of final settlement.

The practice of making partial payments, although not required by the order, recognizes to some degree the need for dairy farmers to be compensated for production costs as soon as reasonably possible. Quite generally, competition in milk procurement is intense to the degree that handlers often meet producers' requests for twice monthly payments, particularly in localities where other handlers are making such payments. Cooperative associations accordingly are under pressure, also, to make twice monthly payments. In this situation cooperatives necessarily depend on payments from pool plant operators to whom they have delivered milk in order to pay their members, or else must borrow funds to do so.

There is a substantial basis for the adoption of partial payments under this order. Such provision will provide a uniform and orderly basis of speeding the flow of money to all producers for milk they have already delivered and result in a more equitable situation among handlers. The payment date now specified in the order for milk delivered in a month is about 48 days after the first day's delivery in such month. During this entire period the producer is without any compensation for expenses incurred in producing the milk, except insofar as the handler may make a voluntary partial payment prior to the date for final payment. Partial payments on a specified basis will accelerate compensation to all producers, thus reducing their burden in meeting production expenses. The payment provisions here adopted will result also in a more uniform basis of payment throughout the market and thus promote orderly marketing.

Provision for partial payments to producers on or before the 3d day after the end of the month at the previous month's Class II price and to cooperatives on or before the first day after the end of the month is a reasonable basis for such payments. This schedules the partial payments approximately the same number of days after the 15th of the month as final settlement is due after the end of the month.

Partial payment will be at the lowest use class price (Class III), disregarding adjustments for butterfat test and plant location. It is provided also that the handler will make the partial payment only to producers who have not discontinued deliveries to the handler by the end of the month. A handler may subtract any proper deductions authorized by the producer in the same manner as for final payments. Thus, the partial payment should not exceed the value of the milk the handler has received.

The two-day earlier due date for payments to cooperatives (for partial and final payment) is provided so that individual members of the cooperative can receive payments by the same time as producers receiving payment directly from handlers. Two days should be adequate for this purpose.

Concerning the objection to partial payments voiced by one handler, it should be noted that by the time partial payment is due, handlers will have had full use of the milk. Producers should not bear the burden of credit handlers may have extended to customers.

The several situations in which partial payments would be made to a cooperative association include that under which producers authorize a cooperative association to collect their monthly payments due from handlers. As previously indicated such partial payments to the cooperative would be due on or before the first day after the end of the month.

Also partial payments should be made by a handler to a cooperative association for milk he receives from the cooperative acting as a bulk tank handler pursuant to § 1030.13(e) at the Class II price of the previous month (for milk of 3.5 percent butterfat content) on or before the first day after the end of the month. Final settlement to the cooperative should be made on the 16th day after the end of the month.

Further, the order should specify that a handler pay a cooperative association the value of milk received from the cooperative association as the operator of a pool plant. The classification of such interplant transfer is established under the rules specified in § 1030.44, and payment by the handler therefore is at the class prices for the utilization of the milk so determined. Partial payments on milk received from the cooperative association's pool plant during the first 15 days of the month would be at the same time and rate as previously described for other partial payments to cooperatives.

A handler representative proposed at the hearing that payments also be required on similar basis to a supply plant operator who is a proprietary handler. This proposal is denied. The order establishes only prices and payments due producers and associations of producers from handlers.

The two proponent cooperative associations proposed that each handler should furnish a supporting statement to each producer in making partial and final payments for milk received from producers. Such provision should be adopted so that the receipient of payment will be provided vertification of the quantity of milk on which payment is made, the rate of payment and any deductions.

The statement should show for each producer; (1) The month and the identity of the producer; (2) his daily and total pounds of milk (and his average butterfat, for the entire month only); and (3) the minimum rate(s) of payment required as well as the rate(s) used in making payment if other than such minimum(s); and (4) the amount or rate and nature of any deduction claimed by the handler and the net payment to the producer or cooperative association. When a cooperative is authorized to collect payment for producers the same information should be provided.

2. *Charges on overdue accounts.*—Any unpaid obligation of a handler to the market administrator should be increased three-fourths of one percent on the 7th day after the due date each month.

The order specifies that each handler shall make payments to the market administrator for the producer-settlement fund not later than the 16th day after the end of the month, and for marketing service money and the handler's share of the administrative expense not later than the 18th day after the end of the month. Payments by operators of partially regulated distributing plants and operators of plants subject to other Federal orders are due on the 25th day after the end of the month.

It was proposed by two cooperative associations that amounts owed by handlers to the market administrator be subject to an added charge if overdue. Proponents stated such charges are necessary to encourage handlers to pay promptly and to eliminate the inequity of the present situation where some handlers are continually late in payments while others pay on time. The proposal made allowance for possible delay in the physical handling of payment procedures because of time for mail delivery and weekends intervening between billing and payment. Proponents stated that the charge for late payments should be applied on the 6th day after the due date specified in the order.

The problem with respect to delinquent payments is that some payments are a few days late while others are overdue a week or more while some handlers are characteristically behind in payments for longer periods.

In May 1973, for example, the market administrator made 48 billings of amounts due the producer-settlement fund, of which 18 were received within five days after the date due, 18 more were received by the end of the month and 12 were received later than the end of the month. The delays in payments to the administrative expense fund and marketing service fund are similar. In May a weekend occured within the five days after the due date and many of the payments were received on the following Monday.

It is essential to the administration and effective operation of a milk order that handlers' payments of their obligations to the specified funds be prompt. Payments to the producer-settlement fund by handlers with higher than average use of their milk in Class I is the means by which money is made available to handlers with lower than average use of milk in Class I in order that all handlers can pay to producers the uniform price representing the average value of milk of all handlers.

The success of this scheme depends on the solvency of the producer-settlement fund. If handlers fail to meet their obligations promptly the operation of the fund is threatened. Even temporary defaults by some handlers may work unfairness to others and encourage wider noncompliance.

The schedule of dates in the order for handlers' reports, announcement of the uniform price and payments to and from the producer-settlement fund are designed to afford the minimum time for these procedures so as to expedite the payment to producers for the milk they have delivered. While the actual experience in achieving payments according to the schedule has not been ideal, there was no substantial support for extending the time for payments to dates later than now specified.

The objective of prompt payment of amounts due the market administrator for the administrative expense and the marketing service funds is also essential to the efficient and timely performance of the administrative functions of the order. This money is necessary to meet the expenses incurred by the market administrator in carrying out the related functions. Deficiencies in payments by handlers to the funds could impair the ability of the market administrator to perform the functions required by the provisions of the order.

It is intended, of course, that every effort be made to have handlers pay their obligations on the date on which due as specified in the order. A charge against handlers for an overdue obligation should make allowance, however, for the possibility that not all delays of a few days can be ascribed to the fault of the handler owing the money. The reasons for such possible delays of a few days in this market have been previously described. In the situation existing in this market, therefore, a charge against handlers whose obligations are overdue can best serve to induce payment in those instances where payment is so late that it clearly constitutes an avoidable delay. It is concluded that a charge for overdue obligations will not be applied within the 6 days after the due date specified in the order, but that payments not in the hands of the market administrator on the 7th day after due date will be subject to a charge. There is no basis for concluding that any delay in delivery of payments beyond such date would be unavoidable.

In establishing a proper charge to a handler on an overdue obligation it is recognized that by delaying payment the handler is thus availing himself of working capital the use of which has a value closely related to interest charged by commercial banks on short-term loans. The amount of the charge for overdue obligations thus should bear a reasonable relationship to the cost of money borrowed for short-term purposes. Under present conditions, three-fourths of one percent per month is reasonable in relation to the cost of short-term credit to business enterprises in the area. The obligation of the handler should be increased on any overdue obligation by three-fourths of one percent on the 7th day after the due date specified in the order and should be increased at the same rate for each additional month that such obligation is overdue. The additional charge computed monthly will apply not only to the original obligation but also to any unpaid interest charge outstanding.

Some obligations due to the market administrator will not be discovered until there is an audit of the handler's accounts. In such cases the order provides that the market administrator shall promptly notify the handler of the amount of money due and payment be made by the handler not later than the date for making this type of payment next following such notification. If payment is not received by the market administrator within six days after such date, the added charge of three-fourths of one percent per month would also apply to such overdue obligation.

At the time the provision is made effective there may be a number of handlers whose obligations are already overdue. In applying uniformly the interest charge for overdue obligations the added charge would be effective on the 7th day after the due date for such type of obligation in the month in which the provision becomes effective, and would be subject to further additional charges at the same rate if still unpaid in succeeding months. Interest charges would not be retroactive prior to the effective date of the provision.

In some other instances the existence of an unpaid obligation will not have been discovered because a handler has failed to submit the regular report of milk receipts and utilization. In such a case the handler's obligation will be considered to have been due on the date that would have been determined if he had filed his report on time.

To avoid administrative costs that otherwise would be involved in the handling of small amounts of interest charged on overdue obligations, provision should be made to delay payment of any interest obligation in an amount less than $10 until the accumulated amount for the handler is $10 or more.

No opposition was expressed to the adoption of an interest charge for overdue obligations.

3. *Exempt distributing plant.*—No change should be made in the definition of "exempt distributing plant."

A proposal by a distributing plant operator would expand the definition of "exempt distributing plant" (§ 1030.12 (e)), to include any plant that processes and bottles less than 9,000 pounds of Class I Grade A milk per day.

Proponent handler, who operates a fluid milk distributing plant and processes ice cream, expressed a need to be relieved of payments into the producer-settlement fund and payments for administrative expense in order to maintain a solvent business. Another distributing plant operator requested that any handler processing less than 5,000 pounds of milk per day be made exempt from the order.

The exemption proposals were opposed by several producer cooperative associations on the basis that such exemptions could lead to disorderly marketing and loss of returns to producers on Class I disposition.

The number of plants that would have been exempt by the proposed provision had it been in effect during 1972, based on handlers' operations during that period, varied from 20 to 23 each month during the year. The quantity of Class I milk that would have been exempt varied from 2.5 to 3.0 million pounds monthly.

The proposals of the two handlers differ in scope and intent from the nature of the present provision for "exempt distributing plant." The existing provision arose out of a situation in which it was found that a governmental agency engaged in dairy operations in this market, but not competitive for the commercial market's Class I sales, need not be regulated in the same manner as plants of other handlers to achieve the objectives of regulation.

The exempt distributing plant provision was included at the time of reestablishment of order regulation for the Chicago marketing area and marketing areas of five nearby milk orders as merged into the single regulation. In the decision issued by the Assistant Secretary May 15, 1968, concerning the proposed Chicago Regional order (33 FR 7516, official notice of which is taken) it is stated that:

> In the present Madison, Wis., order a plant operated by a State educational institution is excluded from the pool plant provisions of the order. Such exemption should be provided in the proposed Chicago Regional order. The University of Wisconsin operates a distributing plant primarily for research and instructional purposes in Madison. Distribution of fluid milk products from this plant results from research and instruction in dairy technology and is generally limited to the University campus. Occasional disposition of such products off the campus is exclusively for research purposes. * * *

Under circumstances as described where the fluid disposition of the government agency is primarily within its own establishment such operation poses no threat to orderly marketing. The proposals of the two handlers, however, would involve distribution by exempt handlers in competition with regulated handlers.

The maintenance of orderly marketing conditions depends upon a system of uniform prices established by the order to be paid by handlers according to the uses handlers make of the milk they receive. Thus, all handlers pay the same minimum class prices for milk received at similar locations. A handler's total money obligation is computed from the quantity of skim milk and butterfat used in Class I and Class II multiplied by the respective class prices, as adjusted for butterfat content and location.

Each handler who has a higher percentage of his utilization in Class I than the market average pays part of his total obligation (computed as described above) to the producer-settlement fund in order that the average value of milk as used by all handlers can be paid to producers on a uniform basis.

Thus, payments by a handler to the producer-settlement fund, from which the proponent handler proposes to be relieved, are not an addition to the class price obligation but are a part of the system of uniform pricing to handlers and the means of conveying such monies to producers at the uniform, or blend, price.

Exempt handlers, not being required to pay the minimum class prices, would have an unwarranted advantage in their cost of milk received from producers compared to other handlers. This would tend to erode the statutory requirement that class prices shall be uniform as to all handlers (subject to the adjustments specified in section 608c(5)(A)), Handlers regulated by a Federal order are marketing their product substantially within a marketing area where they compete with other handlers as rivals for the same trade. In these circumstances it is inevitable that the application of price regulation to some handlers but not to others will injure the business of those subject to regulation.

A handler not subject to the minimum price system established by the order will have advantage over his competitors. He will be able to pay the producers less than his rivals are required to pay, and thus will be in a position to undersell them on the market.

Further, the interests of producers are served best when the maximum proportion of milk regularly supplied to the market through commercial channels is pooled under the terms of the order. The operation of the pool on this basis is an essential feature of this regulation, designed to maintain orderly marketing. It is the mechanism through which producers enjoy the benefits of the Class I sales value of all handlers in the market. If some dairy farmers regularly supplying the market are not included in the pooling operation they are deprived of such benefits.

If the proposal were adopted, a substantial number of producers would not have the protection of minimum prices established by the order. The quantities of milk that would be exempt from pooling have been cited. Greater quantities would be exempt if additional operators undertook to qualify for the exemption.

Proponent handler petitioned also to be relieved of payment of his share in meeting the administrative expense of the order. Such administrative expense necessarily is incurred by the market administrator in carrying out his functions in administering the order. Since each handler is charged a proportionate share of such expense, to exempt certain handlers as proposed simply would transfer the additional burden to other handlers. The proposal is denied.

4. *Definition of a cooperative association handler on bulk tank milk.*—The definition of "handler" as it applies to a cooperative association responsible for moving milk from farms to pool plants in bulk by tank truck should not be changed at this time.

Section 1030.13(e) defines a cooperative association as a handler "with respect to milk of its producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association." A proposal was offered to clarify the application as to milk that may be handled by a cooperative association under the terms of such provision.

Certain questions were raised at the hearing and in a brief filed by two cooperative associations concerning the effect of the proposed change in the handler definition in light of particular marketing practices in the area. The information to deal with these questions was insufficiently developed on the record. Also, two producer groups contend, in their brief, that there are no administrative or marketing problems in the Chicago Regional market at the present time to necessitate a change in the handler definition.

In view of the insubstantial airing on the record concerning marketing practices by cooperative and proprietary handlers that might be affected by the proposed change, further review would be appropriate. Therefore, no action is taken on this record.

5. *Administrative and Miscellaneous order changes.*—(a) *Exclusion of milk of certain handlers from uniform price computation.*—The computation of the uniform price should be modified to include the milk of all pool handlers designated in § 1030.70, except when inclusion of the milk of any handler in default of payments to the producer-settlement fund would endanger operation of the fund.

The order now provides that a handler's report shall be excluded from the computation of uniform price for the month if he has failed to make payments he owes the producer-settlement fund for the preceding month. This provision was intended to protect the producer-settlement fund from depletion by reason of continued failure by a handler or handlers to pay the money owed.

It was proposed by the Dairy Division, Agricultural Marketing Service, that a handler not be excluded from the uniform price computation under the described provision if the reserve money in the producer-settlement fund is at a level such that the operation of the fund will not be impaired by such procedure. In testimony by a staff member of the market administrator it was stated that while payments are not always received with the promptness the order requires, defaults of handlers for prior months' ob-

ligations have not in the past endangered the maintenance of adequate reserve money in this large regional order pool.

As previously described, the purpose of the producer-settlement fund is to serve as a "clearing-house operation to which payments are due whenever the class use value of the handler's milk in a month exceeds the amount he owes to producers at the uniform price, and from which money is paid out to other handlers whose class use value per hundredweight is less than the value at the uniform price. Thus, all handlers are enabled to pay the minimum uniform price to producers.

A reasonable reserve is necessary for the efficient operation of the producers' settlement fund, to cover such contingencies as late payments by a handler, and to enable payment by a market administrator when a handler is due monies by reason of audit adjustments. The reserve money in the producer-settlement fund is provided by withholding from the pool computation an amount not less than 4 cents nor more than 5 cents per hundredweight of producer milk in arriving at the uniform price. The reserve is operated as a revolving fund, one half of the unobligated balance that remains from previous periods being added to the uniform price computation each month.

There are several reasons for including a handler's report in the uniform price computation even though he is in default for the previous month:

(1) The uniform price payable to producers each month will represent, as nearly as possible, the total classified use value of all producer milk in the market. If some handlers' reports were excluded, the announced uniform price to producers would be reduced since the defaulted payments are due from handlers that have a higher-than-average utilization;

(2) If all handlers are included, the published pool data each month will represent the complete market information as to supplies and utilization. Otherwise, on some occasions a relatively large handler (or handlers) might be excluded for owing only a small amount to the fund but omission of his report would result in distorted information as to market trends; and

(3) The administrative operation is facilitated if all handlers' reports can be included uniformly in the computation for the month to which such reports apply.

In this market, because of the large volume of producer milk (about 690 million pounds monthly) the amount of reserve money in the fund is large and generally has not been seriously reduced when one or more of the 150 or so handlers [1] have not met their obligation for the prior month. Further, the manner in which the reserve money is replenished each month tends to assure that, except in very unusual circumstances, the reserve of the fund will be maintained at an adequate level.

Although there has been from time to time some noncompliance, in no case has the deficiency of payments jeopardized the operation of the producer-settlement fund. A review of the operation of the fund during the history of the order shows that the amounts owed by handlers delinquent in payments to the fund for prior months have been characteristically small in relation to total reserve money in the fund. The delinquencies would not have depleted or endangered, in any case, the reserve of the fund.

In the future, in view of the charge herein adopted on overdue accounts, the delinquencies of payments should be less frequent.

It was proposed, therefore, that the provision for excluding the defaulting handlers from the computation of the uniform price not be effective unless the reserve money available for the price computation is below a specified level that reasonably assures operation of the fund. In the order language herein adopted it is stated that the amount of reserve money available to be included in the computation of the uniform price (i.e., one-half of the unobligated balance) should be at least 2 cents per hundredweight times the quantity of producer milk.

The provision herein adopted is similar to a provision of the New York-New Jersey order that has proved satisfactory in operation.

In the event that the reserve in the producer-settlement fund falls below the specified level, the milk of those handlers who had not paid their previous month's pool obligation would be excluded from the uniform price computation. Further, the order now provides that if the balance in the producer-settlement fund is insufficient to make all payments due handlers, the market administrator shall reduce uniformly such payments, and then complete such payments as soon as the necessary funds become available.

No opposition was expressed to the adoption of this modification to the uniform price computation. The proposed change is administratively feasible and should be adopted.

(b) *Offset against payments due handlers from the producer-settlement fund.*—The order should be modified to provide that payments due a handler from the producer-settlement fund may be offset against any amounts owed by the handler to the market administrator with respect to marketing services deductions and administrative assessment.

In § 1030.83 *Producer-settlement fund,* provision is already made for offset of payments due a handler from the fund against payments due from such handler to the fund. This offsetting arrangement is limited to payments into and out of the producer-settlement fund and thus does not apply to the marketing service fund or the administrative expense fund.

In the interest of efficiency in handling of payments to and from handlers, it is appropriate that the market administrator be able to offset any payments due to a handler against any payments due from the handler. Further, the offset arrangement provides opportunity in some instances for the market administrator to collect money due from the handler when the handler has failed to pay his obligations to the market administrator.

For example, if the proposed offset arrangement had been in effect in April 1973, 17 of 81 billings for administrative expense and 15 of 41 billings for marketing service funds for such month could have been settled by offset against money due the handlers from the producer-settlement fund.

There was no opposition expressed to the adoption of the "offset" modifications herein provided.

(c) *Conforming changes.*—Conforming changes have been made throughout the order to implement the described amendments in a consistent manner throughout the regulation.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and

[1] Official notice is taken of the list of handlers operating pool plants in September 1972 published by the market administrator.

will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Chicago Regional marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1030.71, the introductory text preceding paragraph (a), and paragraph (a) are revised as follows:

§ 1030.71 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of producer milk of 3.5 percent butterfat content at plants in Zone I pursuant to paragraphs (a) through (g) of this section. If the unreserved cash balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made the payments required pursuant to § 1030.84 for the preceding month shall not be included in the computation of the uniform price. The report of such handler shall not be included in the computation for suceeding months until he has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administator shall compute the uniform price in the following manner:

(a) Combine into one total the values computed pursuant to § 1030.70 for all handlers;

* * * * *

2. Section 1030.80 is revised as follows:

§ 1030.80 Time and method of payment for milk.

(a) Each handler shall pay each producer for producer milk received from such producer and for which payment is not made to a cooperative association pursuant to paragraph (b) or (c) of this section as follows:

(1) On or before the 3rd day after the end of each month, to each producer who has not discontinued shipping milk to such handler before the end of the month, for producer milk received during the first 15 days of the month at a rate per hundredweight not less than the lowest class price under the order for milk of 3.5 percent butterfat for the preceding month, less proper deductions authorized in writing by such producer; and

(2) On or before the 18th day after the end of each month, for producer milk received during such month, at a rate per hundredweight of not less than the uniform price adjusted pursuant to §§ 1030.81, 1030.82, and 1030.87, less any payment made pursuant to paragraph (a) (1) of this section, and any proper deduction authorized in writing by such producer and plus or minus adjustments for errors in previous payments made to such producer. If by such date the handler has not received full payment from the market administrator pursuant to § 1030.85 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following receipt of the balance due from the market administrator.

(b) Payments required in paragraph (a) of this section shall be made by a handler to a cooperative association qualified under § 1030.5, or its duly authorized agent, for producer milk if the cooperative association is authorized to collect such payments for such producers and has presented the handler with a written request for such payments. Payments to the cooperative association pursuant to this paragraph shall be subject to the condition that the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by the handler because of any improper claim on the part of the cooperative association. The amount of payment shall be equal to the sum of the individual payments otherwise payable for such producer milk and shall be paid by the handler as follows:

(1) On or before the 1st day after the end of each month for producer milk received during the first 15 days of the month; and

(2) On or before the 16th day after the end of each month for milk received during such month; and

(c) Each handler shall pay a cooperative association for milk received by the handler from the cooperative association as follows:

(1) In the case of milk received from a pool plant(s) operated by a cooperative association:

(i) For milk received during the first 15 days of the month, the handler shall pay the cooperative association on or before the 1st day after the end of the month during which the milk was received at a rate per hundredweight not less than the lowest class price under the order for milk of 3.5 percent butterfat for the preceding month; and

(ii) For milk received during the month the handler shall pay the cooperative association on or before the 16th day after the end of the month during which the milk was received at a rate per hundredweight not less than the minimum class prices pursuant to § 1030.51 subject to the applicable butterfat differentials and less any payment made pursuant to paragraph (b) (1) (i) of this section; and

(2) In the case of milk received from a cooperative association acting as a handler described under § 1030.13(e), including the milk of producers who are not members of such association, and who the market administrator determines have authorized such cooperative association to collect payment for their milk::

(i) For milk received during the first 15 days of the month, the handler shall pay a cooperative association on or before the 1st day after the end of the month during which the milk was received at a rate per hundredweight not less than the lowest class price under the order for milk of 3.5 percent butterfat for the preceding month; and

(ii) For milk received during the month, the handler shall pay the cooperative association on or before the 16th day after the end of the month during which the milk was received at a rate per hundredweight of not less than the uniform price computed as described under § 1030.71, adjusted for the applicable location and butterfat differentials and less any payment made pursuant to paragraph (b) (2) (i) of this paragraph.

(d) In making payments for producer milk pursuant to paragraphs (a) or (b) of this section, each handler shall furnish each producer or cooperative association to whom such payment is made a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and identity of the producer;

(2) The daily and total pounds for each producer (and the average butterfat content for the entire month only);

(3) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(4) The rate that is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount, or the rate per hundredweight, and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.

3. Section 1030.86 is revised to read as follows:

§ 1030.86 Adjustment of accounts.

(a) *Payments.*—When verification by the market administrator of reports or payments of any handler discloses errors resulting in monies due (1) the market administrator from such handler, (2) such handler from the market administrator, or (3) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payments next following such disclosure.

(b) *Overdue accounts.*—Any unpaid obligation of a handler pursuant to §§ 1030.60, 1030.61, 1030.84, 1030.87, 1030.88, or paragraph (a) (1) of this section, shall be increased three-fourths of one percent on the 7th day after the due date each month.

(1) The amounts payable pursuant to this paragraph shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously computed pursuant to this paragraph;

(2) For the purpose of this paragraph, any unpaid obligation that is determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator shall be considered to have been due when it would have been due if such report had been submitted at the proper time; and

(3) Payment of any interest obligation computed pursuant to this paragraph in amount less than $10 shall be delayed until the accumulated interest obligation of such handler equals or exceeds $10.

4. Section 1030.83 is amended as follows:

§ 1030.83 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement" fund into which he shall deposit all payments received pursuant to paragraph (a) of this section and out of which he shall make all payments required pursuant to paragraph (b) of this section.

(a) Payments made by handlers pursuant to §§ 1030.60, 1030.61, 1030.84 and 1030.86.

(b) Payments due handlers pursuant to §§ 1030.85 and 1030.86: *Provided,* That payments due any handler shall be offset by payments due from such handler pursuant to §§ 1030.60, 1030.61, 1030.84, 1030.86, 1030.87 and 1030.88.

Signed at Washington, D.C., on August 29, 1973.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.73-18669 Filed 8-31-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Part 233]

FACTORS SPECIFIC TO AFDC

Continued Absence of Parent From the Home

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations establish as a condition for State plan approval a mandatory definition of continued absence of the parent from the home for purposes of establishing eligibility for Aid to Families with Dependent Children. A Federal definition is warranted to eliminate possible confusion resulting from the United States Supreme Court decision in *Carleson* v. *Remillard,* 406 U.S. 598, which invalidated a State's policy of denying AFDC solely on the basis of absence due to military service. The requirement of family dissociation is included to implement legislative intent and preclude intentional family separations designed solely to secure public assistance. A time period of 30 days is used for "continued" absence because that period is reasonable both in terms of length and lack of hardship to a family deprived of support.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections, thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, on or before October 4, 1973. Comments received will be available for public inspection in Room 5224 of the Department's offices at 301 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202-963-7361).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

Dated August 10, 1973.

JAMES S. DWIGHT, Jr.,
Administrator, Social and Rehabilitation Service.

Approved August 24, 1973.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Section 233.90, Part 233, Chapter II, Title 45 of the Code of Federal Regulations is amended by revising subparagraphs (2) and (3), adding a new subparagraph (6) to paragraph (b) and by revising paragraph (c)(1)(iii) as follows:

§ 233.90 Factors specific to AFDC.

* * * * *

(b) *Conditions for plan approval.* (1) A child may not be denied AFDC either initially or subsequently "because of the conditions of the home in which the child resides", or because the home is considered "unsuitable", unless "provision is otherwise made pursuant to a State statute for adequate care and assistance with respect to such child". (Section 404 (b) of the Social Security Act.)

(2) [Reserved]

(3) [Reserved]

* * * * *

(6) An otherwise eligible child may not be denied AFDC if there is continued absence of the parent from the home as defined in paragraph (c)(1)(iii) of this section.

(c) *Federal financial participation.* (1) * * *

(iii) *Continued absence of the parent from the home.*—(A) Continued absence of the parent from the home constitutes the reason for deprivation of parental support or care when (*1*) the parent is physically absent from the home; (2) the nature of the absence constitutes family dissociation; and (3) the absence has continued for 30 days, or facts exist that give rise to a presumption that the absence will continue for longer than 30 days.

(B) "Family dissociation" (*1*) means a substantial severance of marital and family ties and responsibilities resulting in the child losing or having a substantial reduction of physical care, communication, guidance and support by at least one of his parents, i.e., in relation to his natural parents, adoptive parents, or stepparent as defined in paragraph (a) of this section, as may be appropriate, and (2) includes separation due to hospitalization, deportation, or incarceration.

(C) An otherwise eligible child may not be denied AFDC solely because his parent is in the military service.

* * * * *

[FR Doc.73-18540 Filed 8-31-73;8:45 am]

Social Security Administration

[20 CFR Part 405]

[Regs. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED

Inpatient Hospital Services Furnished Outside United States Including Physician and Ambulance Services

Notice is hereby given pursuant to the Administrative Procedure Act, as amended (5 U.S.C. 553) that amendments to the regulations (20 CFR Part 405), as set forth below in tentative form are proposed by the Acting Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments revise and update the present regulations to implement section 211 of the Social Security Amendments of 1972 (P.L. 92-603) which authorizes payment for (1) certain inpatient hospital services furnished outside the United States for Medicare beneficiaries who reside in border areas, (2) emergency inpatient services in Canadian hospitals for beneficiaries traveling between Alaska and another State, and (3) physician and ambulance services furnished in conjunction with covered inpatient hospital services furnished in foreign hospitals.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, views, or objections relating thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welafare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before October 4, 1973.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in sections 1102, 1814, 1861, 1862, 1871, 49

Stat. 647, as amended, 79 Stat. 296, 331, as amended; 42 U.S.C. 1302, 1395 et seq.

(Catalog of Federal Domestic Assistance Program Nos. 13.800, Health Insurance for the Aged—Hospital Insurance, and 13.801, Health Insurance for the Aged—Supplemental Medical Insurance.)

Dated August 2, 1973.

ARTHUR E. HESS,
Acting Commissioner of Social Security.

Approved: August 23, 1973.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Regulations No. 5 of the Social Security Administration (20 CFR 405) are amended as follows:

1. Section 405.153 is revised to read as follows:

§ 405.153 Payment for services; hospital outside the United States.

(a) *Emergency services.*—The authority contained in § 405.152 is applicable to emergency inpatient hospital services furnished an individual by a hospital located outside the United States if:

(1) The individual was physically present in a place within the United States or, effective with admissions occurring after December 31, 1972, at a place within Canada while traveling without unreasonable delay by the most direct route between Alaska and another State, at the time the emergency arose which necessitated such inpatient hospital services; and

(2) The hospital was closer to, or substantially more accessible from, such place than the nearest hospital within the United States which was adequately equipped to deal with, and was available for the treatment of, such individual's illness or injury; and

(3) The conditions set forth in § 405.152(a) (4) and (7) are met.

(b) *Services in hospital which is closest to or most accessible from beneficiary's residence.*—Effective with admissions occurring after December 31, 1972, payment shall be made for inpatient hospital services furnished an individual entitled to hospital insurance benefits under section 226 of the Social Security Act, by a hospital located outside the United States, or under arrangements (as defined in section 1861(w) of the Social Security Act) if:

(1) Such individual is a resident of the United States; and

(2) Such hospital was closer to, or substantially more accessible from the residence of such individual than the nearest hospital within the United States which was adequately equipped to deal with, and was available for the treatment of, such individual's illness or injury; and.

(3) The foreign hospital is (i) a hospital as defined in § 405.152(a) (1) and (ii) is accredited by the Joint Commission on Accreditation of Hospitals, or is accredited or approved by a program of the country in which such institution is located if the Administration finds the accreditation or comparable approval standards of such program to be essentially equivalent to those of the Joint Commission on Accreditation of Hospitals.

(c) *Payments.*—(1) A payment shall be made in the amount provided under section 1814(b) of the Act to any hospital for the inpatient hospital services described in this section furnished to an individual by the hospital or under arrangements (as defined in section 1861 (w) of the Act) with it, if (i) the Administration would be required to make such payment if the hospital had an agreement in effect under this Part and otherwise met the conditions of payment hereunder, and (ii) such hospital elects to claim such payment, and (iii) such hospital agrees to comply, with respect to such services, with the provisions of section 1866(a) of the Act.

(2) Payment for the inpatient hospital services described in this section furnished to an individual entitled to hospital insurance benefits may be made on the basis of an itemized bill to such individual if (i) payment for such services cannot be made under paragraph (c) (1) of this section solely because the hospital does not elect to claim such payment, and (ii) such individual files an application for reimbursement. The amount payable with respect to such services shall, subject to section 1813 of the Act, be equal to the amount which would be payable under section 1814(d) (3) of the Act.

2. Section 405.313 is revised to read as follows:

§ 405.313 Nonreimbursable expenses, items or services not provided in the United States.

Payment may not be made under title XVIII of the Act for expenses incurred for items or services which are not provided within the United States (that is, the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa) except:

(a) Inpatient hospital services furnished outside the United States in accordance with the provisions of § 405.153 (a) and (b), and

(b) Effective with admissions occurring after December 31, 1972, payment may be made on the basis of an itemized bill for physician and ambulance services furnished an individual in conjunction with such covered inpatient hospital services but only for the period during which such inpatient hospital services were furnished.

[FR Doc.73-18541 Filed 8-31-73;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner

[24 CFR Part 201]

[Docket No. R-73-235]

MOBILE HOME LOANS

Factory Inspections of Mobile Homes

The Department of Housing and Urban Development is considering amending Part 201 of Title 24 of the Code of Federal Regulations, Subpart B, "Mobile Home Loans". The amendment issued in accordance with sec. 2(a) of the National Housing Act, 12 U.S.C. 1701, would require that mobile homes sold to purchasers utilizing FHA insured loans display a seal indicating that they have been subject to inspection and are in conformance with mobile home standard No. A119.1 as approved by the American National Standards Institute, Inc. (formerly the United States of America Standards Institute). Inspections shall be made by "third party" private or state organizations or agencies that have been approved by the Commissioner. Private organizations must demonstrate that they have been approved as testing and certifying organizations by at least two states.

All interested persons are invited to submit written comments or suggestions in triplicate with respect to this proposal, on or before October 2, 1973, addressed to the Rules Docket Clerk, Office of the General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. All relevant material will be considered before adoption of a final rule. A copy of each communication will be available for public inspection during regular business hours at the above address.

The proposed rule is issued pursuant to sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

1. Section 201.520(b) is proposed to be amended to read as follows:

§ 201.520 Structural design and standards.

* * * * *

(b) *ANSI criteria.*—The requirements of paragraph (a) of this section may be satisfied by compliance with the specifications in effect at the time the loan is made which are prescribed in mobile home standard No. A119.1, as approved by the American National Standards Institute (formerly the United States of America Standards Institute), hereinafter referred to as "ANSI". A certification shall be obtained from the manufacturer stating that the mobile home was constructed in accordance with the ANSI requirements and that the home bears the label of an independent inspection agency certifying that the mobile home was constructed in accordance with ANSI requirements.

* * * * *

2. A new § 201.521 is proposed to read as follows:

§ 201.521 Factory inspection.

The home shall display a seal certifying that it has been subject to representative inspections in accordance with a quality control program approved by the Commissioner and is in compliance with the requirements of § 201.520. Inspections shall be made by a testing agency or organization approved by the Commissioner.

3. A new § 201.522 is proposed to read as follows:

§ 201.522 Private testing organizations.

A private testing organization which applies for approval by the Commissioner, shall establish that it has been approved by at least two official state agencies to inspect and certify mobile homes and that it is actively engaged in the inspection and certification of mobile homes.

Issued at Washington, D.C., August 28, 1973.

SHELDON B. LUBAR,
Assistant Secretary for Housing Production and Mortgage Credit.

[FR Doc.73-18664 Filed 8-31-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 127]

[CGD 73-182P]

NEW LONDON HARBOR, CONNECTICUT

Proposed Establishment of Security Zones

Correction

In FR Doc. 18182 appearing in the issue of Tuesday, August 28, 1973, the 11th line of § 127.305 (a) (2) should read: "41°21'03" N., longitude 72°05'00" W."

Federal Aviation Administration

[14 CFR Parts 71, 75]

[Airspace Docket No. 72-SW-74]

JET ROUTE AND REPORTING POINT

Proposed Designation

Correction

In FR Doc. 73-16176 appearing on page 21274 in the issue of Tuesday, August 7, 1973, in paragraph a, the longitude coordinates in the second line reading "69°35' ", should read "96°35' ".

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 73-21; Notice 1]

MOTOR VEHICLE SAFETY STANDARDS

Definition of Multipurpose Passenger Vehicle

This notice proposes an amendment of the definition of "multipurpose passenger vehicle" for purposes of the motor vehicle safety standards, to eliminate reference to features for off-road operation.

The term "multipurpose passenger vehicle", one of the basic vehicle types regulated by the NHTSA, is defined in 49 CFR 571.3 as follows:

"Multipurpose passenger vehicle" means a motor vehicle with motive power, except a trailer, designed to carry 10 persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation.

This definition was created with the issuance of the initial standards to give relief from immediate compliance with the passenger car standards to certain types of vehicles. These vehicles, though intended primarily to carry passengers, were similar in construction to trucks, and subject to the same limitations in the ability of their manufacturers to bring them into immediate conformity. Typical examples of vehicles falling into this category were the Jeep, passenger vans such as the Ford Econoline, motor homes, and chassis-mount campers. The first group, Jeep-type vehicles, are designed with off-road capability, some but not all having four-wheel drive. It appears that all the types originally considered to be MPV's, however, were built on what are generally considered to be truck chassis. Thus, the alternative criterion of having features for off-road operation was redundant from the standpoint of these vehicles.

Recently, Volkswagen has introduced into this country a vehicle known as the Thing, which VW considers to be a multipurpose passenger vehicle, on the basis that it contains features for off-road operation such as ground clearance, high approach and departure angles, and low transmission ratios. This agency understands that the Thing is built on what is essentially a VW Beetle chasis, and VW does not claim that it has a truck chassis within the meaning of the definition. Thus, for the first time a vehicle is entering the U.S. market in large numbers classified as a multipurpose passenger vehicle solely on the basis of having some features for occasional off-road operation. The vehicle, as an MPV, is not required to conform to such standards as 201 (Occupant Protection in Interior Impact), 202 (Head Restraints), 203 (Impact Protection of the Driver from the Steering Control System), 204 (Steering Control Rearward Displacement), 214 (Side Door Strength), 215 (Exterior Protection), and the more advanced passenger car provisions of 208 (Occupant Crash Protection).

When approached by Volkswagen on the question of classification, this agency reluctantly concurred in considering the Thing an MPV, since it did fit the definition. The NHTSA considers it unfortunate, however, that a passenger-carrying vehicle, built on a passenger car chassis, is being introduced at this time without many of the required safety features that have long been present on passenger cars. This agency is proceeding with its announced plans to extend to MPV's many of the standards currently applicable only to passenger cars, but such amendments will require forward effective dates to allow time for design changes. In the interim, it is in the public interest to keep to a minimum the number of passenger-carry vehicles on the roads without passenger car safety features.

For these reasons, it has been tentatively determined that the definition of multipurpose passenger vehicle should be amended to eliminate reference to off-road operational features, thus limiting the category to vehicles built on truck chassis. The proposed effective date of September 1, 1974, is intended to allow Volkswagen and any other interested parties sufficient time to adjust to the amendment, while not so far in advance as to defeat the purpose of the change.

Accordingly, it is proposed that the definition of "multipurpose passenger vehicle" in 49 CFR 571.3 be amended to read:

"Multipurpose passenger vehicle" means a motor vehicle with motive power, designed to carry 10 persons or less, that is constructed on a truck chassis.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at theabove address both before and after that date. To the extent possible, comments filed after the closing date will also be considered by the Administration. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Administartion will continue to file relevant material, as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Proposed effective date.—September 1, 1974.

Comment closing date.—October 15, 1973.

(Secs. 103, 119 Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on August 28, 1973.

ELWOOD T. DRIVER,
Acting Associate Administrator, Motor Vehicle Programs.

[FR Doc.73-18648 Filed 8-31-73;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 221]

[Docket No. 24416]

PUBLICATION OF TARIFFS FOR SERVICES NOT ACTUALLY PROVIDED TO THE PUBLIC

Supplemental Notice of Proposed Rulemaking

AUGUST 29, 1973.

By notice of proposed rulemaking EDR-225A, dated August 1, 1973, the Board gave notice that it had under consideration proposed amendments to Part 221 of its Economic Regulations (14 CFR Part 221), which would require that tariffs on file with the Board concerning fares, rules, classifications, practices, or

services for passenger service correspond with the services actually scheduled in the particular market. Interested persons were invited to participate in the proceeding by the submission of twelve (12) copies of written data, views, or arguments pertaining thereto to the Docket Section of the Board on or before September 7, 1973.

By letter dated August 21, 1973, Western Airlines, Inc. (Western), has requested that the time for filing comments be extended to September 17, 1973.

The undersigned finds that good cause has been shown for granting this request.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations, the undersigned hereby extends the time for submitting comments to September 17, 1973.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324).)

Acting Associate General Counsel,

[SEAL] SIMON J. EILENBERG,
Acting Associate General Counsel,
Rules and Rates.

[FR Doc.73-18654 Filed 8-31-73;8:45 am]

[14 CFR Part 298]

[EDR 251A; Docket No. 25800]

REPORTING OF CERTAIN DATA BY COMMUTER AIR CARRIERS AND OTHER AIR TAXI OPERATORS

Supplemental Notice of Proposed Rulemaking

AUGUST 29, 1973.

By notice of proposed rulemaking EDR-251, dated August 15, 1973, and published at 38 FR 22494, the Board gave notice that it had under consideration an amendment to Part 298 of its Economic Regulations (14 CFR Part 298), which would require certain additional statistical data to be reported quarterly by commuter air carriers, and require all air taxi operators, including commuter air carriers, to report certain statistical data annually. Interested persons were invited to participate in the proceeding by submission of twelve (12) copies of written data, views, or arguments pertaining thereto to the Docket Section of the Board on or before October 5, 1973.

By letter dated August 22, 1973, the National Air Transportation Conferences, Inc. (NATC) has requested an extension of the time for filing comments to October 19, 1973. In support of its request, NATC says that the Commuter Air Carrier Conference is scheduled to hold a meeting on October 3 and 4, 1973, and that the proposal set forth in EDR-251 will be included on the agenda for discussion, so that such discussion could help interested parties in preparing more fully informed comments for submission to the Board in this proceeding.

The undersigned finds that good cause has been shown for an extension of time for filing comments to October 19, 1973.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations, the undersigned hereby extends the time for submitting comments to October 19, 1973.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324.)

[SEAL] SIMON J. EILENBERG,
Acting Associate General Counsel,
Rules and Rates.

[FR Doc.73-18655 Filed 8-31-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

NEW JERSEY AND PENNSYLVANIA

Approval and Promulgation of State Implementation Plans; Correction

Transportation control plans were proposed for New Jersey and Pennsylvania on July 3, 1973 (38 FR 17782). This notice makes certain corrections to those proposals. A proposed rule for air bleed retrofit in Pennsylvania was inadvertently omitted and is provided herein.

Dated August 29, 1973.

JOHN QUARLES,
Acting Administrator,
Environmental Protection Agency.

1. In FR Doc. 73-13036 appearing at page 17784 of the issue for Tuesday, July 3, 1973, the following changes are to be made under the heading: "Proposed Controls and Mobile Sources".

The fifth line of the subdivision should read: "Region (311,913 tons/yr vs. 157,988 ton/" * * *

2. At page 17786 the table titled "Compilation of Control Strategy Effects on May 31, 1976 Carbon Monoxide Camden County-Metropolitan Philadelphia AQCR," is corrected by deletion and replacement with the table indicated below:

COMPILATION OF CONTROL STRATEGY EFFECTS ON MAY 31, 1976—CARBON MONOXIDE

CAMDEN COUNTY-METROPOLITAN PHILADELPHIA AQCR

	Tons per year	Percent of total reduction due to each control	Percent reduction
1. Mobile emissions from on-highway light and heavy duty vehicles without control strategy	131,730		
Expected Reductions:			
a. FMVCP	23,666	46	12.7
b. Inspection and maintenance	9,000	16	6.7
c. Reduction in vehicle miles traveled	22,203	33	16.5
Mobile emissions remaining	73,767		
Total emissions without control strategy	134,811		
Total reduction	57,969	100	43.0
Total emissions remaining	76,842		

3. At page 17788 in § 52.1585, the word "California" should be changed to "New Jersey" in paragraph (c)(3).

4. At pages 17797 and 17798 in § 52.2038 paragraphs (a)(2) and (a)(3) are revised and paragraph (b)(2) is renumbered (b)(3) and a new paragraph (b)(2) is added as follows. Also, in the fifth line of paragraph (b)(3) (as renumbered) change the words "the CBD" to those CBD's.

§ 52.2038 Regulation for limitation of public parking.

(a) * * *

(2) Within the City of Philadelphia "CBD" is defined as the area bounded by Vine Street, South Street, the Schuylkill River, and the Delaware River.

(3) Within the City of Pittsburgh "CBD" is defined as the area by the Allegheny, the Monongahela River and I-376.

* * * * *

(b) * * *

(2) Beginning January 2, 1974 the City of Pittsburgh shall prohibit on-street parking between the hours of 7 a.m. and 6 p.m., Monday through Saturday on all streets and highways in the CBD over which it has ownership or control and which contain express bus lanes or trolleys. The prohibition shall state that vehicles parked in violation of the prohibition shall either be towed away, or the owner subject to a fine of up to $100 or both.

* * * * *

7. At page 17799 add new § 52.2041 to read as follows:

§ 52.2041 Air Bleed to Intake Manifold Retrofit.

(a) Definitions:

(1) The term "air bleed to intake manifold retrofit" as used in this section means a device in the intake system of the vehicle which enables the air/fuel ratio to be increased by metering additional air to the intake manifold in accordance with intake manifold vacuum advance to reduce emissions of hydrocarbons and carbon monoxide to the atmosphere.

(2) All other terms used in this section which are defined in 40 CFR Part 51, Appendix N, are used herein with the meanings as defined.

(b) This section is applicable in Allegheny County, Bucks County, Chester County, Delaware County, Montgomery County, Philadelphia County, and the City of Philadelphia.

(c) The Commonwealth of Pennsylvania shall establish a retrofit program to ensure that on or before June 30, 1976, all gasoline powered light-duty vehicles of model years prior to 1968, subject under presently existing legal requirements to registration in the areas defined in paragraph (b) above, are equipped with an appropriate air bleed to intake manifold device. No later than March 1, 1974, the Commonwealth shall submit legally adopted regulations to EPA establishing

such a program. The regulations shall include:

(1) Designation of agency responsible for evaluating and approving such devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for insuring that the provisions of paragraph (c) (3) of this section are enforced.

(3) Provisions for beginning the installation of the air bleed devices by July 1, 1975, with installation devices on all vehicles subject to this section no later than June 30, 1976.

(4) Procedures for insuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and will have an adequate supply of retrofit components.

(d) After July 1, 1976, the Commonwealth shall not register or allow to operate on its streets or highways any light-duty vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(e) After July 1, 1976, no owner of a vehicle subject to this section shall operate nor allow the operation of any such vehicle which does not comply with the applicable standards and procedures implementing this section.

(f) The Commonwealth of Pennsylvania shall submit no later than December 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce retrofit program pursuant to paragraph (c) of this section, including the text of statutory proposals and regulations which the Commonwealth proposed for adoption. The compliance schedules shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1974.

(g) Failure to comply with any provision of this section shall render each person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act.

A State will be considered to have failed to comply with the requirements of this regulation if it fails to timely submit the required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

[FR Doc.73-18628 Filed 8-31-73;8:45 am]

[40 CFR Part 180]

OXYTETRACYCLINE HYDROCHLORIDE

Proposed Tolerance

Mr. C. B. Christensen, Director, Department of Food and Agriculture, State of California, 1220 N Street, Sacramento, Calif. 95814, on behalf of the California pear growers submitted a petition (PP 3E1407) proposing establishment of a tolerance for residues of the fungicide oxytetracycline hydrochloride in or on pears at 0.35 part per million resulting from infusion of the fungicide into pear trees after harvest and prior to formation of new blooms.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The fungicide is useful for the purpose for which the tolerance is proposed.

2. Due to the instability of oxytetracycline hydrochloride, especially in aqueous solutions, no actual residue is expected in pears from the proposed use. The proposed tolerance represents the sensitivity of the analytical method.

3. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a) (3) applies.

4. The proposed tolerance will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), it is proposed that Part 180 be amended by adding the following new section to Subpart C:

§ 180.337 Oxytetracycline hydrochloride; tolerances for residues.

A tolerance of 0.35 part per million is established for residues of the fungicide oxytetracycline hydrochloride in the raw agricultural commodity pears resulting from infusion of pear trees with an aqueous solution of the fungicide after harvest and prior to formation of new blooms.

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, on or before October 4, 1973, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, on or before October 4, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets SW., Waterside Mall, Washington, D.C. 20460, written comments (preferably in quintuplicate regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public inspection at the office of the Hearing Clerk.

Dated August 28, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-18627 Filed 8-31-73;8:45 am]

COST OF LIVING COUNCIL

[6 CFR Part 152

EXECUTIVE AND VARIABLE COMPENSATION

Notice of Proposed Rulemaking

Correction

In FR Doc. 73-18704 appearing at page 23629 in the issue of Friday, August 31, 1973, paragraph (d) (4) of § 152.130 was omitted. It should be inserted immediately after § 152.130(d) (3) and should read as follows:

(4) *Excess amounts*—(i) *General rule.*—For purposes of this paragraph, if a member of an executive control group receives a payment, award, or grant of an item of incentive compensation which is charged as a wage and salary increase pursuant to § 152.124(d) (2) (ii) or § 152.125(d) (2) (ii), the amount of such payment, award, or grant so charged shall be treated as an increase in annual base salary during the fiscal year in which such payment, award, or grant is made. However, such amount shall not be treated as part of annual base salary for purposeso f determining the average group salary rate on a fiscal base date with respect to the succeeding fiscal year.

(ii) *Application illustrated.*—The provisions of this subparagraph may be illustrated by the following example:

Example.—Employee A, a member of an executive control group, is a participant in an incentive bonus plan and receives $5,000 which, under § 152.124(d) (2) (ii), is treated as a wage and salary increase. For purposes of computing the average group salary rate for the executive control group, A is considered to have received a $5,000 salary increase during the fiscal year in which the $5,000 is paid. However, this $5,000 is excluded when A's salary is computed for purposes of determining the average group salary rate on the fiscal base date with respect to the succeeding fiscal year.

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[Public Notice CM-57]

ADVISORY COMMITTEE ON SCIENCE AND FOREIGN AFFAIRS

Notice of Meeting

The Department of State Advisory Committee on Science and Foreign Affairs will meet on September 14 and 15, 1973, at 9:30 a.m. in Room 7516, Department of State, 2201 C Street NW., Washington, D.C. 20520.

The Committee exists to provide the Department of State with a source of outside expertise and counsel on a wide range of foreign policy problems and opportunities created by or involving scientific and technological developments.

In accordance with section 10(d) of the Advisory Committee Act (P.L. 92-463) it has been determined that the above meeting will necessarily involve discussion of matters concerned with those recognized as not subject to public disclosure under 5 U.S.C. 522(b)(1), and that the public interest requires that such activities be withheld from disclosure. The meeting will therefore be closed to the public.

Any questions concerning the meeting should be directed to J. Kenneth Mansfield, Executive Secretary, Department of State Advisory Committee on Science and Foreign Affairs (202-632-3625).

Dated August 29, 1973.

J. KENNETH MANSFIELD,
Executive Secretary, Advisory Committee on Science and Foreign Affairs.

[FR Doc.73-18636 Filed 8-31-73;8:45 am]

[Public Notice CM-58]

STUDY GROUP CMTT OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Notice of Meeting

The Department of State announces that Study Group CMTT of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on September 17, 1973, at 10:00 a.m. in the auditorium on the first floor of the COMSAT Building, 950 L'Enfant Plaza SW., Washington, D.C.

Study Group CMTT deals with technical standards for telecommunication systems to permit the transmission of sound and television broadcasting programs over long distances. The meeting on September 17 will consider new draft texts which are proposed as U.S. contributions to the international meeting of Study Group CMTT in 1974.

Members of the general public who desire to attend the meeting on September 17 will be admitted up to the limits of the capacity of the meeting room.

Dated August 8, 1973.

GORDON L. HUFFCUTT,
Chairman, U.S. CCIR National Committee.

[FR Doc.73-18637 Filed 8-31-73;8:45 am]

[Public Notice CM-59]

STUDY GROUP 4 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Notice of Meeting

The Department of State announces that Study Group 4 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on September 19, 1973, at 9:45 a.m., in the auditorium on the first floor of the COMSAT Building, 950 L'Enfant Plaza SW., Washington, D.C.

Study Group 4 deals with matters relating to systems of radio communications for the fixed services using satellites. The agenda for the meeting will include consideration of draft documents being developed as proposed contributions by the U.S. to the international meeting of Study Group 4 in 1974.

Members of the general public who desire to attend the meeting on September 19 will be admitted up to the limits of the capacity of the meeting room.

Dated August 29, 1973.

GORDON L. HUFFCUTT,
Chairman, U.S. CCIR National Committee.

[FR Doc.73-18638 Filed 8-31-73;8:45 am]

[Public Notice CM-63]

SECRETARY OF STATE'S ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW, STUDY GROUP ON ESTATE MATTERS

Notice of Meeting

A meeting of the Study Group on Estate Matters, a sub-group of the Secretary of State's Advisory Committee on Private International Law, will take place on Friday, September 14, 1973, in room 5519 of the Department of State. The meeting, which will begin at 10 a.m., will be open to the public.

The primary purpose of the meeting is to review the Draft Convention Providing a Uniform Law on the Form of the International Will. The Study Group will give attention to the principal issues raised by that draft and make recommendations concerning the positions that the United States should take on those issues at the Diplomatic Conference on Wills to be held at Washington from October 16-26, 1973.

Members of the general public who desire to attend the meeting will be admitted up to the limits of the capacity of the meeting room. Entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Accordingly, members of the general public who plan to attend the meeting are requested to inform the Chairman of the Advisory Committee of their names and addresses prior to September 14. The mailing address of the Chairman is Office of the Legal Adviser, Department of State; the telephone number is area code 202, 632-8134. All nongovernment attendees at the meeting should use the C-Street entrance to the building.

Dated August 29, 1973.

ROBERT E. DALTON,
Executive Director.

[FR Doc.73-18733 Filed 8-31-73;8:45 am]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

REGIONAL ADVISORY COMMITTEE ON BANKING POLICIES AND PRACTICES OF THE THIRD NATIONAL BANK REGION

Notice of Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Comptroller of the Currency's Regional Advisory Committee on Banking Policies and Practices of the Third National Bank Region will be held at 8 p.m. on September 20, 1973, at the Seaview Country Club, Absecon, New Jersey.

The purpose of this meeting is to assist the Regional Administrator and Comptroller of the Currency in a continuing review of bank regulations and policies. The meeting will also apprise agency officials of current conditions and problems banks are experiencing in the Third National Bank Region.

It is hereby determined pursuant to section 19(d) of Public Law 92-463 that the meeting is concerned with matters listed in section 552(b) of Title 5 of the United States Code and particularly with exceptions (3), (4) and (8) thereof, and is therefore exempt from the provisions of section 10(a)(1) and (a)(3) of the Act (Public Law 92-463) relating to open meetings and public participation therein.

Dated August 27, 1973.

[SEAL] JAMES E. SMITH,
Comptroller of the Currency.

[FR Doc.73-18625 Filed 8-31-73;8:45 am]

U.S. Customs Service

[T.D. 73-230]

FOREIGN CURRENCIES

Certification of Rates

Correction

In FR Doc. 73-17868 appearing in the issue of Thursday, August 23, 1973, the agency document number [T.D. 73-230] was inadvertently omitted from the heading and therefore should be included to read as printed above.

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Notice of Meeting

AUGUST 24, 1973.

The USAF Scientific Advisory Board Ad Hoc Committee on Electromagnetic Pulse Vulnerability of USAF Manned Systems will hold closed meetings on September 13 and 14, 1973 at R&D Associates, Santa Monica, California.

The Committee will receive classified briefings on the Air Force plans for modeling electromagnetic pulse effects.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-4648.

JOHN W. FAHRNEY,
Colonel, USAF, Chief, Legislative Division, Office of the Judge Advocate General.

[FR Doc.73-18577 Filed 8-31-73;8:45 am]

DEPARTMENT OF THE INTERIOR

National Park Service

NORTHEAST REGIONAL ADVISORY COMMITTEE

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Northeast Regional Advisory Committee will be held at 9:30 a.m., e.d.t., on September 13 and 14, 1973, at LaMothe Hall, Elm Avenue, Munising, Michigan, with a field trip to Pictured Rocks National Lakeshore.

The Northeast Regional Advisory Committee was established pursuant to Public Law 91-383, August 18, 1970, to provide for the free exchange of ideas between the National Park Service and the public, and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the Northeast Region of the National Park Service.

The members of the Advisory Committee are as follows:

Mr. Norman G. Duke, Northfield, Ohio (Chairman);
Mr. Hyman J. Cohen, Arlington, Virginia;
Mr. Charles H. W. Foster, Needham, Massachusetts;
Mr. Fred D. Hartley, Kenosha, Wisconsin;
Mr. Lewis W. Jones, Bloomington, Illinois;
Mr. William L. Lieber, Indianapolis, Indiana;
Mr. Frederick R. Micha, Ontario, New York;
Dr. M. Graham Netting, Pittsburgh, Pennsylvania.

The matters to be discussed at this meeting include review of current Regional activities, international exchange of resource professionals, role of Park Advisory Commissions, Wilderness areas, research, and a field inspection of Pictured Rocks National Lakeshore.

The meeting is open to the public. It is expected that 25 persons will be able to attend the session in addition to the Advisory Committee members and the National Lakeshore staff. Transportation will not be provided for members of the public for the field inspection. However, members of the public may participate by providing their own transportation.

Any member of the public may file with the Committee a written statement concerning matters to be discussed.

Further information concerning this meeting may be obtained from George A. Palmer, Associate Director, Northeast Regional Office, at 215-597-7014. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Northeast Region, 143 South Third Street, Philadelphia, Pa.

Dated August 21, 1973.

IRA WHITLOCK,
Acting Associate Director, National Park Service.

[FR Doc.73-18580 Filed 8-31-73;8:45 am]

National Register of Historic Places

By notice in the FEDERAL REGISTER of February 28, 1973, Part II, there was published a list of the properties included in the National Register of Historic Places. This list has been amended by a notice in the FEDERAL REGISTER of March 6 (pp. 6084-6086), April 10 (pp. 9095-9097), May 1 (pp. 10745-10748), June 5 (pp. 14770-14777), July 3 (pp. 17744-17749), and August 7 (pp. 21278-21284). Further notice is given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following properties have been demolished and removed from the National Register:

Colorado

El Paso County

Colorado Springs *Chief Theatre (Barns Building and Theatre)*, 21½ East Pikes Peak.

Pennsylvania

Lehigh County

Allentown, *Nonnemaker House*, 301 S. Lehigh Street.

The following are corrections to previous listings in the FEDERAL REGISTER:

Delaware

Kent County

Cowgill's Corners vicinity, *Eight-Square Schoolhouse*, east of Cowgill's Corners off Delaware 9.

Dover, *Bradford-Lookerman House*, 419 South State Street.

Dover vicinity, **Dickinson, John, Mansion*, 5 miles southeast of Dover and 3 miles east of U.S. 13 on Kitts Hummock Road.

New Castle County

Claymont, *Robinson House*, Naaman's Corner.

Michigan

Emmet County

Mackinaw City, **Fort Michilimackinac*, near Mackinac Bridge, at the terminus of U.S. 31.

Ohio

Cuyahoga County

Cleveland, *Old Stone Church*, 91 Public Square.

Pennsylvania

Lancaster County

Washington Borough vicinity, *Strickler Site (36 La 3)*, south of Washington Borough.

The following properties have been added to the National Register since August 7: (Dates in parentheses indicate when property was entered on the National Register).

Alabama

Lee County

Opelika, *Lee County Courthouse*, south 9th Street between Avenue A and Avenue B 7-23-73).

Montgomery County

Montgomery, *Union Railway Station*, Water Street (7-24-73).

Alaska

Southcentral District

Wasilla vicinity, *Knik Site*, about 15 miles southwest of Wasilla on Knik Road (7-24-73).

Arkansas

Sebastian County

Fort Smith, *Fort Smith's Belle Grove Historic District* (7-16-73).

California

Humboldt County

Eureka, *Janssen, E., Building*, 422 First Street (7-16-73).

Los Angeles County

Industry, *Rowland, John A., House*, 16021 East Gale Avenue (7-16-73).

South Pasadena, *Oaklawn Bridge and Waiting Station*, between Oaklawn and Fair Oaks Avenues (7-16-73).

Plumas County

Blairsden vicinity, *Plumas-Eureka Mills Jamison Mines District*, west of Blairsden off alternate U.S. 40 in Plumas-Eureka State Park (7-16-73).

San Diego County

National City, *Brick Row*, A Avenue between 9th and 10th Streets (7-16-73).

San Joaquin County

Stockton, *Old Weber School*, 55 West Flora Street (7-16-73).

Shasta County

Cottonwood, *Cottonwood Historic District* (7-16-73).

Colorado

Jefferson County

Buffalo Creek, *La Hacienda*, on secondary road off U.S. 285 (7-20-73).

Delaware

New Castle County

Montchanin vicinity, *Strand Millas and Rock Spring*, between Montchanin and Rockland (7–16–73).

District of Columbia

Washington

American Security and Trust Company, 15th and Pennsylvania Avenue NW. (7–16–73).
Bayly, Mountjoy/Johnson, Hiram, House, 122 Maryland Avenue NE. (7–20–73).
Dumbarton Bridge (Q Street Bridge), Q Street, over Rock Creek Park at 23d Street NW. (7–16–73).
Duncanson-Cranch House, 463–470 N Street SW. (7–26–73).
Haw, John Stoddert, House, 2808 N Street NW. (7–16–73).
Lewis, Edward Simon, House, 456 N Street SW. (7–23–73).
Luther Place Memorial Church, 1226 Vermont Avenue NW. (7–16–73).
Metropolitan African Methodist Episcopal Church, 1518 M Street NW. (7–26–73).
Riggs National Bank, 1503–05 Pennsylvania Avenue NW. (7–16–73).
Ringgold-Carroll House, 1801 F Street NW. (7–26–73).
St. Aloysius Catholic Church, North Capitol and I Streets NW. (7–26–73).
Wheat Row, 1315–1321 4th Street SW. (7–23–73).
Whittemore House (Woman's National Democratic Club), 1526 New Hampshire Avenue NW. (7–16–73).

Florida

Alachua County

Gainesville, *Epworth Hall*, 419 Northeast 1st Street (7–25–73).
Gainesville, *Hotel Thomas*, bounded by NE. 2d and 5th Streets and NE. 6th and 7th Avenues (7–16–73).

Columbia County

Lake City, *Henderson, T. G., House*, 207 South Marion Street (7–24–73).

Dade County

Coconut Grove, *Ransom School Pagoda*, 3575 Main Highway (7–25–73).

Madison County

Madison, *Dial, William M., House*, 105 Northeast Marion Street (7–24–73).

Nassau County

Fernandina Beach, *Fernandina Beach Historic District* (7–20–73).

St. Johns County

St. Augustine, *Ximenez-Fatio House*, 20 Aviles Street (7–25–73).

Georgia

Fulton County

Atlanta, *Inman Park* (7–23–73).

Monroe County

Bolingbroke vicinity, *Great Hill Place*, west of Bolingbroke on U.S. 23/41 (7–24–73).

Hawaii

Honolulu County

Honolulu vicinity, *Pohaku ka luahine*, north of Honolulu near center of Moanalua Valley (7–23–73).

Illinois

Alexander County

Cairo, *Old Custom House*, Washington and 15th Streets (7–24–73).

Cook County

Chicago, *Scoville Building*, 619–631 West Washington (7–31–73).

Jersey County

Elsah, *Elsah Historic District* (7–27–73).

Jo Daviess County

Galena, *Old Market House*, Market Square-Commerce Street (7–16–73).

Monroe County

Columbia vicinity, *Lunsford-Pulcher Archeological Site*, northwest of Columbia (also in St. Clair County) (7–23–73).

St. Clair County

Lunsford-Pulcher Archeological Site, (see Monroe County).

Indiana

Fayette County

Connersville, *Canal House*, 111 East 4th Street (7–16–73).

Iowa

Johnson County

Iowa City, *College Block Building*, 125 East College Street (7–23–73).

Woodbury County

Sioux City, *Sioux City Central High School*, 1212 Nebraska Street (7–23–73).

Kansas

Cloud County

Concordia, *Brown Grand Opera House*, 310 West 6th Street (7–26–73).

Kentucky

Jefferson County

Louisville, *Jefferson County Jail*, 514 West Liberty Street (7–16–73).

Kenton County

Covington, *Cathedral Basilica of the Assumption*, 1130 Madison Avenue (7–20–73).
Covington, *Mother of God Roman Catholic Church*, 119 West 6th Street (7–26–73).

Louisiana

Caddo Parish

Shreveport, *Scofield, William, House (Lindsay House)*, 2803 Woodlawn Avenue (7–16–73).

East Baton Rouge Parish

Baton Rouge, *Pentagon Barracks (U.S. Barracks)*, North Riverside Mall (7–26–73).

Maine

Cumberland County

Portland, *Ingraham, Joseph Holt, House*, 51 State Street (7–16–73).
Portland, *Stevens, John Calvin, House*, 52 Bowdoin Street (7–16–73).
South Windham vicinity, *Smith, Parson, House*, Southeast of South Windham on River Road (7–16–73).

Kennebec County

Gardiner, *Christ Episcopal Church*, 1 Dresden Avenue (7–24–73).
Gardiner, *Oaklands*, South end of Dresden Street (7–27–73).

Washington County

East Mathias vicinity, *"The Rim" and Site of Fort Foster*, South of East Mathias off U.S. 1 (7–23–73).

York County

York, *York Historic District* (7–16–73).

Maryland

Baltimore County

Cockeysville vicinity, *Stone Hall*, north of Cockeysville off Maryland 25 on Cuba Road (7–26–73).
Long Green vicinity, *Prospect Hill*, northeast of Long Green on Kanes Road (7–26–73).

Massachusetts

Middlesex County

Lincoln vicinity, *Hoar Tavern*, northeast of Lincoln on Massachusett 2 (7–23–73).

Norfolk County

Milton, *Suffolk Resolves House (Daniel Vose Residence)*, 1370 Canton Avenue (7–23–73).

Suffolk County

Boston, *Otis, (Second) Harrison Gray, House*, 85 Mount Vernon Street (7–27–73).

Michigan

Allegan County

Hacklander Site, northwest Allegan County (7–27–73).

Mason County

Not-a-pe-ka-gon Site, southeast Mason County (7–27–73).

Saginaw County

Bridgeport Township, *Schmidt Site*, Central Saginaw County (7–27–73).

Mississippi

Hancock County

Pearlington vicinity, *Jackson Landing Site*, 3 miles southeast of Pearlington (7–27–73).

Pontotoc County

Pontotoc vicinity, *Treaty of Pontotoc Site*, 7 miles southeast of Pontotoc (7–27–73).

Nebraska

Otoe County

Nebraska City vicinity, *Ware, Jasper A., House (Wildwood Farm)*, south of Nebraska City on Steinhart Park Road (7–16–73).

New Jersey

Bergen County

Oakland, *Van Allen House*, at corner of U.S. 202 and Franklin Avenue (7–24–73).

Hudson County

Hoboken, *Erie-Lackawanna Railroad Terminal at Hoboken*, on the Hudson River at the foot of Hudson Place (7–24–73).

Morris County

Boonton, *Miller-Kingsland House*, 455 Vreeland Avenue (7–24–73).
Florham Park, *Little Red School House*, Ridgedale Avenue at Columbia Turnpike (7–24–73).
Mendham, *Thompson, David, House*, 56 West Main Street (7–24–73).

Warren County

Hope, *Hope District* (7–23–73).

New Hampshire

Merrimack County

Concord, *Old Post Office*, North State Street between Capitol and Park streets (8–13–73).

New Mexico

Hidalgo County

Lordsburg vicinity, *Shakespeare Ghost Town*, southwest of Lordsburg off New Mexico 494 (7–16–73).

Santa Fe County

Santa Fe, *Santa Fe Historic District* (7-23-73).
Santa Fe vicinity, *Pueblo of Tesuque (Tatunge)*, about 8 miles north of Santa Fe off U.S. 64/84/285 (7-16-73).

New York

Cattaraugus County

Napoli vicinity, *Gladden Windmill*, north of Napoli on Pigeon Valley Road (7-16-73).

Delaware County

Delhi, *Delaware County Courthouse Square District* (7-16-73).

New York County

New York, *Charlton-King-Vandam Historic District* (7-20-73).

Niagara County

Niagara Falls, *U.S. Custom House*, 2245 Whirlpool Street (7-16-73).

Onondaga County

Syracuse, *White, Hamilton, House*, 307 South Townsend Street (7-20-73).

Ontario County

Canandaigua, *North Main Street Historic District* (7-20-73).
Geneva, *Geneva Hall and Trinity Hall*, South Main Street (7-16-73).

Orange County

Newburgh, *Montgomery - Grand - Liberty Streets Historic District* (7-16-73).

Rensselaer County

Troy, *Esek Bussey Fire House*, 302 10th Street (7-16-73).

Suffolk County

Great River vicinity, *Southside Sportsmens Club District*, northeast of Great River off New York 27 (7-23-73).
Mastic, *Floyd, William, House*, 20 Washington Avenue (4-21-71).
Sag Harbor, *Sag Harbor Village District* (7-20-73).
St. James, *St. James District* (7-20-73).
St. James vicinity, *Mill Pond District*, north of St. James on New York 25A (8-1-73).

Ulster County

New Paltz vicinity, *Lake Mohonk Mountain House Complex*, northwest of New Paltz off Canaan Road (7-16-73).

Washington County

Fort Edward, *Rogers Island*, in the Hudson River at Fort Edward (7-24-73).

North Carolina

Chowan County

Edenton, *Edenton Historic District* (7-16-73).

Gaston County

Dallas, *Dallas Historic District* (7-26-73).

Robeson County

Lumberton vicinity, *Humphrey-Williams House*, west of Lumberton on North Carolina 211 (7-24-73).

Ohio

Butler County

Millville vicinity, *Cochran Farm*, 2900 Ohio 129 (7-16-73).

Clermont County

Bantam vicinity, *Pinkham Farm*, northwest of Bantam off Ohio 125 (7-23-73).

Cuyahoga County

Cleveland, *Perry-Payne Building*, 740 Superior Avenue (7-16-73).
Cleveland, *White, Henry P., House*, northwest corner of Euclid Avenue and East 90th Street (7-16-73).

Delaware County

Galena vicinity, *Spruce Run Earthworks*, about 3 miles south of Galena (7-16-73).

Franklin County

Columbus, *Ohio Asylum for the Blind*, 240 Parsons Avenue (7-26-73).
Worthington, *Snow, John, House*, 41 West New England Avenue (7-26-73).

Guernsey County

Cambridge, *Guernsey County Courthouse*, Courthouse Square (7-16-73).

Hamilton County

Cincinnati, *Rawson House*, 3767 Clifton Avenue (7-24-73).

Lake County

Unionville, *Unionville Tavern*, on Ohio 84 (7-23-73).

Lucas County

Maumee, *House of Four Pillars*, 332 East Broadway (7-16-73).
Toledo, *Fort Industry Square* (7-23-73).

Muskingum County

Zanesville, *Muskingum County Courthouse and Jail*, 4th and Main Streets (7-16-73).

Ross County

Bainbridge, *Harris, Dr. John, Dental School*, Main Street (7-23-73).

Chillicothe vicinity, *High Banks Works*, southeast of Chillicothe (7-16-73).

Summit County

Akron, *Loew's Theatre*, 182 South Main Street (7-16-73).

Tuscarawas County

New Philadelphia, *Tuscarawas County Courthouse*, Courthouse Square (7-16-73).

Wayne County

Wooster, *Wayne County Courthouse District* (7-26-73).

Pennsylvania

Bucks County

Richboro vicinity, *Thompson, John, House*, 1925 Second Street Pike (7-16-73).

Fayette County

Brier Hill, *Colley, Peter, Tavern and Barn*, on U.S. 40 (7-24-73).

Philadelphia County

Philadelphia, *Mennonite Meetinghouse*, 6119 Germantown Avenue (7-23-73).

Washington County

Washington, *Bradford, David, House*, 175 South Main Street (7-16-73).

South Carolina

Oconee County

Walhalla vicinity, *Ellicott Rock*, north of Walhalla off South Carolina 107 along North Carolina-South Carolina state line (7-24-73).

Tennessee

Jefferson County

Dandridge, *Swann, Judge James Preston, House*, Cherokee Drive (7-16-73).

Lincoln County

Fayetteville vicinity, *Conger, Isaac, House*, northeast of Fayetteville off Hamestring Road (7-16-73).

Maury County

Columbia vicinity, *Hamilton Place*, west of Columbia off U.S. 43 (7-16-73).

Rutherford County

Murfreesboro, *Collier-Crichlow House*, 511 East Main (7-16-73).
Murfreesboro, *Rutherford County Courthouse*, Public Square (7-16-73).

Smyrna vicinity, *Ridley's Landing*, north of Smyrna on Jones Mill Road at Stone River (7-16-73).

Texas

Milam County

Rockdale, *San Xavier Mission Complex Archeologic District*, 13 miles west of Rockdale (7-27-73).

Webb County

Laredo vicinity, *San Jose de Palafox Historic/Archeological District*, about 30 miles northeast of Laredo (7-24-73).

Zapata County

San Ygnacio, *San Ygnacio Historic District* (7-16-73).

Vermont

Orange County

Randolph, *Chandler Music Hall and Bethany Parish House*, 71 Main Street (7-16-73).

Windham County

Rockingham vicinity, *Worral Covered Bridge*, north of Rockingham across the Williams River (7-16-73).

Virginia

Bedford County

Perrowville vicinity, *Old Rectory*, south of Perrowville on Virginia 663 (7-24-73).

Clarke County

Millwood vicinity, *Carter Hall*, northeast of Millwood off Virginia 255 (7-24-73).

Fairfax County

McLean, *Salona*, 1214 Buchanan Street (7-24-73).
Falls Church (independent city), *Cherry Hill*, 312 Park Avenue (7-26-73).

Gloucester County

White Marsh vicinity, *Fairfield Site*, west of White Marsh near junction of Virginia 633 and 614 (7-16-73).
Harrisonburg (independent city), *Harrison, Thomas, House*, 30 west Bruce Street (7-26-73).

Henrico County

Tuckahoe vicinity, *Woodside*, southwest of Tuckahoeoff Virginia 157 (7-24-73).

King and Queen County

Aylett vicinity, *Holly Hill*, northeast of Aylett off U.S. 360 (7-24-73).

Nottoway County

Nottoway vicinity, *Nottoway County Courthouse*, off U.S. 460 on Virginia 625 (8-13-73).

Petersburg (independent city), *Mollwaine House*, Market Square at corner of Pellam and Cockade Alleys (7-16-73).

Rockingham County

Dayton vicinity, *Fort Harrison*, northeast of Dayton on Virginia 42 (7-24-73).

Russell County

Dickersonville vicinity, *Old Russell County Courthouse,* west of Dickersonville on Alternate U.S. 58 (7–16–73).

Spotsylvania County

Fredericksburg vicinity, *Rapidan Dam Canal of the Rappahannock Navigation* (7–26–73).

Staunton (independent city), *Mary Baldwin College, Main Building,* Mary Baldwin College campus (7–26–73).

Sussex County

Sussex, *Sussex County Courthouse Historic District* (7–24–73).

Washington

Pierce County

Steilacoom, *Davidson House,* 1802 Commercial Street (7–27–73).

West Virginia

Cabell County

Huntington, *Old Main-Marshall University,* 16th Street on the Marshall University campus (7–16–73).

Greenbrier County

Lewisburg vicinity, *Stuart Manor,* southwest of Lewisburg off U.S. 219 (7–27–73).

Hardy County

Moorefield vicinity, *Fort Pleasant,* north of Moorefield (7–16–73).

Harrison County

Shinnston, *Shinn, Levi, House,* Clarksburg Road (U.S. 19) (7–16–73).

Jefferson County

Charles Town vicinity, *Claymont Court,* about 3 miles southwest of Charles Town on West Virginia 13 (7–25–73).

Wyoming

Teton County

West Thumb vicinity, *Old Faithful Inn,* west of West Thumb at Old Faithful on Grand Loop Road (7–23–73).

ROBERT M. UTLEY,
Director, Office of Archeology and Historic Preservation.

[FR Doc.73–18083 Filed 8–31–73;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

PACIFIC CREST NATIONAL SCENIC TRAIL ADVISORY COUNCIL

Notice of Meeting

Notice is hereby given that a meeting of the Pacific Crest National Scenic Trail Advisory Council will be held, beginning at 8 a.m., and ending at 2 p.m., on September 22, 1973, at the Cispus Environmental Education Center near Randle, Washington. The purpose of the Council is to advise the Secretary on matters relating to the Pacific Crest National Scenic Trail, including the selection of rights-of-way, standards of the erection and maintenance of markers along the Trail, and the administration of the Trail.

The agenda for this meeting will include:

SATURDAY, SEPTEMBER 22

1. Reports from Subgroup Chairman and/or Council Members concerning Trail matters.
2. Fiscal Year 1973 accomplishments; fiscal year 1974 programs; future needs.
3. Management of Wilderness and the Pacific Crest National Scenic Trail.
4. General discussions—topics from the floor.

The meeting will be open to the public. For additional information, interested persons may contact the Forest Service, Washington, D.C., by telephone (703–235–8069) or by mail (USDA, Forest Service, Washington, D.C. 20250) prior to the meeting.

RUSSELL P. MCROREY,
Chairman, Pacific Crest Trail Advisory Council.

AUGUST 27, 1973.

[FR Doc.73–18619 Filed 8–31–73;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COMPUTER PERIPHERALS, COMPONENTS AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given that a meeting of the Computer Related Test Equipment Subcommittee of the Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee will be held Friday, September 7, 1973, at 10:00 a.m. at E–H Research Laboratories, 515 11th St., Oakland, California.

Members advise the Office of Export Control, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer peripherals, components, and related test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Presentation of papers or comments by the public.
2. Discussion of foreign availability of computer related test equipment.
3. Discussion of end use patterns for above equipment.
4. Discussion of equipment exports.
5. Discussion of technology exports.
6. Discussion of work programs.
7. Executive session:
   a. Discussion of foreign availability of computer related test equipment.
   b. Discussion of end use patterns for above equipment.
   c. Discussion of equipment exports.
   d. Discussion of technology exports.
   e. Discussion of work programs.
8. Adjournment.

The public will be permitted to attend the discussion of agenda items 1–6, and a limited number of seats—approximately 5—will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the subcommittee. Interested persons are also invited to file written statements with the subcommittee.

With respect to agenda item 7, "Executive Session," the Assistant Secretary of Commerce for Administration, on August 13, 1973, determined, pursuant to Section 10(d) of Public Law 92–463, that this agenda item should be exempt from the provisions of Sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552(b)(1).

Further information may be obtained from Dr. John C. Hubbs, Chairman of the subcommittee, E–H Research Laboratories, Inc., 515 11th St., Oakland, California (Area Code 415–834–3030).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated August 29, 1973.

STEVEN LAZARUS,
Deputy Assistant Secretary for East-West Trade, U.S. Department of Commerce.

[FR Doc.73–18674 Filed 8–31–73;8:45 am]

RESEARCH AND DEVELOPMENT WORKING GROUP OF THE INDUSTRY ADVISORY COMMITTEE ON METAL SCRAP PROBLEMS

Notice of Meeting

A meeting of the Research and Development Working Group of the Industry Advisory Committee on Metal Scrap Problems will be held from 11 a.m. to late afternoon, on Thursday, September 13, 1973, Room 4833, Commerce Building, 14th and E Streets NW., Washington, D.C.

The Committee gathers information and provides advice to Department officials in order to identify and overcome problems in metal scrap consumption. The Committee advises on such national issues as conservation of natural resources, solid waste management, and environmental quality, including problems of junk autos. The Research and Development Working Group has the responsibility of listing problem areas in both the physical and social sciences where research may be needed for the continuum of the scrap cycle.

The following items will be discussed in order to provide advice to the Industry Advisory Committee, so that the full Committee can arrive at recommendations for presentation to the Secretary of Commerce:

1. Methods to improve statistical gathering in order to better follow the industry cycles.
2. a. Ways to increase long-term supply of metal scrap.
   b. Supply of possible substitutes for metal scrap.
   c. Available information regarding sources of supply.
3. Feasibility of industry shifting from short-term to long-term contractual arrangements.
4. Inventory policies.

a. Scrap consumers.
b. Scrap processors.
c. Government.
5. Scrap delivery systems.
6. Status of junk car disposal programs of Federal, State, and local governments and implementation with industry.
7. Municipal waste programs as they relate to the recovery of metal scrap.
8. Summary of public and private metal scrap recovery projects underway.
9. Government export licensing programs.

Mr. Edmund Pfeifer, Director of Purchases and Traffic, Lukens Steel Company, is Chairman of the Working Group. The membership of the group consists of six members, currently drawn from six involved industries represented on the full Committee—iron and steel scrap processing, nonferrous scrap processing, automobile and truck wrecking, basic iron and steel producing, ferrous foundry, and automobile manufacturing.

A limited number of seats will be available to the public, including several which will be reserved for the press.

Interested parties will be given an opportunity to speak before the Committee at the conclusion of the agenda. Questions or extended statements must be submitted in writing to the committee guidance and control officer at least 3 days prior to the meeting.

Persons wishing additional information concerning this meeting should contact the committee guidance and control officer, Mrs. Diana B. Friedman, Materials Division, Room 2007, U.S. Department of Commerce, Washington, D.C. 20230, Telephone 202/967-5505.

GARY M. COOK,
Acting Deputy Assistant Secretary for Competitive Assessment and Business Policy.

[FR Doc.73-15570 Filed 8-31-73;8:45 am]

SEMICONDUCTOR MANUFACTURING AND TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Test Equipment Subcommittee of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee will be held Tuesday, September 11, 1973, at 9 a.m. at Del Webb's Townhouse, Market and 8th Sts., San Francisco, California.

Members advise the Office of Export Control, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor manufacturing and test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Opening remarks and review of purpose of subcommittee by F. Van Veen, Chairman.
2. Presentation of papers or comments by public.
3. Work Program:
a. Digital IC test equipment.
b. Linear IC test equipment.
c. Discrete-semiconductor test equipment.
4. Executive session:
a. Review of test equipment capabilities of Communist countries.
b. Work program:
(1) Digital IC test equipment.
(2) Linear IC test equipment.
(3) Discrete-semiconductor test equipment.
5. Generation of Final Report of Subcommittee for September 20, meeting of Semiconductor Manufacturing and Test Equipment Technical Advisory Committee.
6. Adjournment.

The public will be permitted to attend the discussion of agenda items 1-3, and a limited number of seats will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the subcommittee. Interested persons are also invited to file written statements with the subcommittee.

With respect to agenda item 4, "Executive Session," the Assistant Secretary of Commerce for Administration, on August 9, 1973, determined, pursuant to section 10(d) of Public Law 92-463, that this agenda item should be exempt from the provisions of Sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 USC 552(b)(1).

Further information may be obtained from Frederick Van Veen, Chairman of the subcommittee, Teredyne, Inc., 183 Essex St., Boston, Mass. 02111, (A/C 617 + 482-2700).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated August 30, 1973.

STEVEN LAZARUS,
Deputy Assistant Secretary for East-West Trade, U.S. Department of Commerce.

[FR Doc.73-18762 Filed 8-31-73;9:15 am]

Maritime Administration

SUPERPORT TANKERS, INC.

Application for Construction-Differential Subsidy

Notice is hereby given that Superport Tankers, Inc., has filed an application dated August 17, 1973, pursuant to Title V of the Merchant Marine Act, 1936, as amended for construction-differential subsidy to aid in the construction of six 380,000 DWT tankers of approximately 16.0 knots speed proposed for operation in worldwide tanker trades.

Interested parties may inspect this application in the office of the Secretary, Room 3099-B, Maritime Administration, Commerce Department Building. Fourteenth and E Streets NW., Washington, D.C. 20235.

Dated August 27, 1973.

By Order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-18593 Filed 8-31-73;8:45 am]

National Bureau of Standards

VOLUNTARY PRODUCT STANDARD

Notice of Intent To Withdraw

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970), notice is hereby given of the intent to withdraw Voluntary Product Standard PS 7-66, "Wire Bar Supports for Reinforcing Concrete Construction." It has been tentatively determined that this standard is no longer technically adequate and revision would serve no useful purpose due to the fact that the subject is adequately covered by the manual of standard practice of the Concrete Reinforcing Steel Institute, CRSI 1, 3d, "Concrete Reinforcement."

Any comments or objections concerning the intended withdrawal of these standards should be made in writing and directed to the Office of Engineering Standards Services, National Bureau of Standards, Washington, D.C. 20234, on or before Oct. 4, 1973. The effective date of withdrawal, if appropriate, will be no later than Nov. 5, 1973. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of the withdrawal.

Dated August 28, 1973.

RICHARD W. ROBERTS,
Director.

[FR Doc.73-18635 Filed 8-31-73;8:45 am]

National Oceanic and Atmospheric Administration

LOUIS SCARPUZZI ENTERPRISES, INC. AND PLEASANT POINT PASSAMAQUODDY TRIBAL COUNCIL

Notice of Exemption Application Under Marine Mammal Protection Act

Notice is hereby given that the following named individuals have filed applications for exemptions from the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361, 86 Stat. 1027 (1972)) on grounds of undue economic hardship as authorized by section 101(c) of the Act, and § 216.13 of the Interim Regulations Governing the Taking and Importing of Marine Mammals (37 FR 28177, 28182, December 21, 1972) for the taking of marine mammals as hereinafter described for the purposes stated.

1. Louis Scarpuzzi Enterprises, Inc., 339 Riverside Drive, Fort Myers, Florida 33905, to take as many as three Atlantic bottle-nose dolphins (*Tursiops truncatus*) and four California sea lions (*Zalophus californianus*) for public display.

The Applicant states:

1. The dolphins would be taken by the Applicant or by professional dolphin capturers in the coastal waters surrounding Florida, excluding the Miami, Tampa, or Naples area, by seine net between the date of issuance of a Letter of Exemption and October 21, 1973;

2. The sea lions would be taken along the coast of California between the date of issuance of a Letter of Exemption and October 21, 1973 by professional sea lion capturers, acclimated in California and air shipped to the Applicant's facility or as hereinafter described;

3. Two of the dolphins and one of the sea lions would be used for public display at the Applicant's facility at 290 Pearl Street, Fort Myers Beach, Florida;

4. One of the dolphins and three of the sea lions would be used by the Applicant's agents for public display under contract with the National Marine Aquarium (Canada) Limited, Oake's Drive, Niagara Falls, Canada;

5. If the Applicant does not get an exemption, it will suffer undue economic hardship in that it will not have sufficient animals on hand at its Fort Myer Beach facility to attract enough customers to make a profit, and will be unable to fulfill contractual obligations it has assumed with the National Marine Aquarium (Canada) Limited, and will consequently be faced with a financial situation which will mean that the Applicant corporation will cease to exist.

2. Pleasant Point Passamaquoddy Tribal Council, Pleasant Point, Perry, Maine 04667, to take as many as 30 dolphins of unspecified species, for subsistence purposes by netting, spearing and shooting.

The Applicant states:

1. The animals would be taken between the date of issuance of a Letter of Exemption and October 21, 1973, in the waters of Passamaquoddy Bay, off the coast of Washington County, Maine, by various members of the Passamaquoddy tribe;

2. The animals taken would be completely utilized, the flesh being used for food and the blubber used for food and oil.

3. Various members of the Applicant tribal council have hunted dolphins for years, and depend upon dolphins for part of their food and other products, and are impoverished;

4. If the exemption is refused, some members of the Applicant tribal council will suffer undue economic hardship in that they will be unable to obtain alternate foodstuffs and other materials comparable to those obtainable from dolphins.

Documents submitted in connection with these applications, other than confidential information, are available for inspection in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and in the Offices of the Regional Directors, National Marine Fisheries Service as follows: For Louis Scarpuzzi Enterprises, Inc., William C. Cramer Federal Office Building, 144 First Avenue, South, St. Petersburg, Florida 33701, telephone 813-893-3141. For the Pleasant Point Passamaquoddy Tribal Council, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, telephone 617-281-0640. Any person wishing to comment on these applications may write to the Director or the appropriate Regional Director.

All statements and opinions contained in this notice in support of the applications are those of the Applicants and do not reflect the views of the National Marine Fisheries Service.

Dated August 23, 1973.

JOSEPH W. SLAVIN,
Acting Director,
National Marine Fisheries Service.

[FR Doc.73-18617 Filed 8-31-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP 7B2062]

KENDALL CO.

Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), The Kendall Co., Chicago Division, 309 West Jackson Blvd., Chicago, Ill. 60606, has withdrawn its petition (FAP 7B2062), notice of which was published in the FEDERAL REGISTER of March 15, 1968 (33 FR 4593), proposing that § 121.2522 *Polyurethane resins* be amended to provide for the safe use of polyurethane resins as a component of single use, disposable nursing-bottle nipples that contact liquid food.

Dated August 24, 1973.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.73-18583 Filed 8-31-73;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-73-251]

DIRECTOR OF URBAN PROGRAM COORDINATION

Notice of Designation

David O. Meeker, Jr., Assistant Secretary for Community Planning and Development, is designated to serve as Director of Urban Program Coordination in accordance with sec. 4(c) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(c)).

(Sec. 7(d); Department of HUD Act (42 U.S.C. 3535(d)).)

Effective date.—This designation is effective as of August 28, 1973.

JAMES T. LYNN,
Secretary of Housing
and Urban Development.

[FR Doc.73-18663 Filed 8-31-73;8:45 am]

Office of Interstate Land Sales Registration

[Docket No. N-73-169; OILSR No. 0-0873-37-4; Administrative Proceedings Division File No. Z-142]

THE HEADLANDS

Order of Suspension

Notice is hereby given that: On June 21, 1973, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, published in the FEDERAL REGISTER a Notice of Proceedings and Opportunity for Hearing, pursuant to 44 U.S.C. 1503, informing the Developer of alleged untrue statements or omissions of material facts in the Developer's Statement of Record. The Developer has failed to request a hearing pursuant to 24 CFR 1720.160 within 15 days of said Notice. Accordingly, pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), the Order of Suspension is being issued as follows:

ORDER OF SUSPENSION

1. Creative Properties, Ltd., hereinafter referred to as the Developer, being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.) and the Rules and Regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, has filed its Statement of Record covering its subdivision located in New York (OILSR No. 0-0373-37-4), which became effective on December 9, 1969, pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. Pursuant to lawful delegation, as authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been vested in the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), if it appears to the Interstate Land Sales Administrator at any time that a Statement of Record, which is in effect, includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statement therein not misleading, the Administrator may, after notice, and after an opportunity for a hearing requested within 15 days of such notice, issue an order suspending the Statement of Record.

4. A Notice of Proceedings and Opportunity for Hearing was published in the FEDERAL REGISTER on June 21, 1973, pursuant to 44 U.S.C. 1503, informing the Developer of information obtained by the Office of Interstate Land Sales Registration showing an untrue statement of a material fact or an omission of a material fact required to be stated therein or necessary to make the statements therein not misleading in the above-specified Statement of Record. The Developer was notified of his right to request a hearing and that if he failed to request a hearing he would be deemed in default and the proceedings would be determined against him, the allegations of which would be determined to be true. The Developer has failed to request a hearing pursuant to 24 CFR 1720.160 within 15 days of publication of said Notice of Proceedings and Opportunity for Hearing.

Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of publication of this Order of Suspension in the FEDERAL REGISTER. This Order of Suspension shall remain in full force and effect until the Statement of Record has been properly amended as required by the Interstate Land Sales Full Dis-

closure Act and the implementing Regulations.

Any sales or offers to sell made by the Developer or its agents, successors, or assigns while this Order of Suspension is in effect will be in violation of the provisions of said Act.

Issued in Washington, D.C., August 28, 1973.

By the Secretary.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.73-18631 Filed 8-31-73;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON BROWNS FERRY NUCLEAR PLANT

Notice of Meeting

AUGUST 30, 1973.

In accordance with the purposes of secs. 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards Subcommittee on Browns Ferry Nuclear Plant, Units 2 and 3, will hold a meeting on September 20, 1973, in Room 1046, 1717 H Street NW., Washington, D.C. The purpose of this meeting will be to review the application of the Tennessee Valley Authority for a license to operate Units 2 and 3, which are located in Limestone County, Alabama, about 10 miles northwest of Decatur, Alabama.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

THURSDAY, SEPTEMBER 20, 1973, 9:00 A.M.–3:30 P.M.

Review of the application for an operating license (presentations by the AEC Regulatory Staff and the Tennessee Valley Authority and its consultants, and discussions with these groups).

In connection with the above agenda item, the Subcommittee will hold an executive session at 8:30 a.m. which will involve a discussion of its preliminary views, and an executive session at the end of the day, consisting of an exchange of opinions of the Subcommittee members and internal deliberations and formulation of recommendations to the ACRS. In addition, prior to the executive session at the end of the day, the Subcommittee may hold a closed session with the Regulatory Staff and Applicant to discuss privileged information relating to plant security and nuclear fuel design, if necessary.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the executive sessions at the beginning and end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b); and that a closed session may be held, if necessary, to discuss certain documents which are privileged, and fall within exemption (4) of 5 U.S.C. 552(b). It is essential to close such portions of the meeting to protect such privileged information and to protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting, the the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than September 13, 1973, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon the application for an operating license and related documents which are on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and the Athens Public Library, South and Forrest, Athens, Alabama 35611.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 1 p.m., and 3 p.m. on the day of the meeting, September 20, 1973.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled, and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted can be obtained by a prepaid telephone call on September 19, 1973, to the Office of the Executive Secretary of the Committee (telephone: 301-973-5651) between 8:30 a.m. and 5:15 p.m., eastern daylight time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545 and within approximately nine days at the Athens Public Library, South and Forrest, Athens, Alabama 35611. On request, copies of the minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545 on or after November 20, 1973. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Committee Management Officer.

[FR Doc.73-18729 Filed 8-31-73;8:45 am]

[Docket No. 50-254]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO.

Notice of Issuance of Facility License Amendment

Notice is hereby given that the U.S. Atomic Energy Commission (the Commission) has issued Amendment No. 6 to Facility Operating License No. DPR-29 authorizing the Commonwealth Edison Company (Commonwealth) and the Iowa-Illinois Gas and Electric Company (Iowa-Illinois) to increase the amount of special nuclear material they may receive, possess, and use in connection with operation of Unit 1 of the Quad-Cities Nuclear Power Station located in Rock Island County, Illinois. The amendment, effective as of the date of issuance, authorizes the receipt, possession and use of an additional 2,000 kilograms of uranium 235 as reactor fuel to permit the storage of replacement fuel for the facility in accordance with Commonwealth's and Iowa-Illinois' application dated July 11, 1973.

The Commonwealth and Iowa-Illinois companies are the holders of Facility Operating License No. DPR-29 issued by the Commission for possession, use and operation of Unit 1 of the Quad-Cities Nuclear Power Station (a boiling water type nuclear power reactor facility) at power levels up to 2511 MWt.

The Commission's regulatory staff has found that the application complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations published in 10 CFR Chapter I, and that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public. The staff also has concluded that this action does not involve a significant hazards consideration since the increase in the material limit is only to permit the replacmeent of depleted fuel elements and does not alter the previously approved operations and procedures. The storage of the additional fuel and of the depleted fuel when removed from the reactor will be in previously reviewed and approved storage facilities and in accordance with previously approved procedures. Consequently, public notice of proposed issuance of the amendment is not required.

Copies of the application dated July 11, 1973, and Amendment No. 6 to License No. DPR-29 are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and at the Moline Public Library at 504 17th Street, Moline, Illinois 61265. Single copies of the license amendment may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 24th day of August 1973.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch #2, Directorate of Licensing.

[FR Doc.73-18594 Filed 8-31-73;8:45 am]

CONTROLLED THERMONUCLEAR RESEARCH SUBCOMMITTEE OF THE US NUCLEAR DATA COMMITTEE

Notice of Meeting

AUGUST 30, 1973.

In accordance with the Atomic Energy Act of 1954, as amended, primarily sections 161a, 31, 32, and 33, the Controlled Thermonuclear Research Subcommittee of the US Nuclear Data Committee will hold a meeting on September 11-12, 1973 in the conference room adjacent to Room 180, Physics Annex, Building SM-215, Los Alamos Scientific Laboratory, Los Alamos, New Mexico. The agenda is as follows:

TUESDAY, SEPTEMBER 11, 1973

9:00 am-11:00 am—Administrative.
11:00 am-12:30 pm—CTR Nuclear Data Requests.
1:30 pm-3:30 pm—Status Report on Requests, Including Recent Compilations and Evaluations.
3:30 pm-5:30 pm—Nuclear Data Applications.

WEDNESDAY, SEPTEMBER 12, 1973

9:00 am-11:00 am—Interfaces with the Cross Section Evaluation Working Group.
11:00 am-12:30 pm—Future Meetings on CTR Data Needs.
1:30 pm-3:30 pm—Summary of Conclusions and Required Actions; Future Plans.

Practical consideration may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items listed above, the following requirements shall apply:

(a) Persons wishing to submit written statements on those agenda items may do so by mailing 25 copies thereof, postmarked, if possible, no later than September 6, 1973, to the Chairman, CTR Subcommittee, USNDC (Dr. Donald Steiner) Oak Ridge National Laboratory, P.O. Box Y, Oak Ridge, Tennessee 37830. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement, and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of not more than 30 minutes at an appropriate time, chosen by the Chairman, between the hours of 9:00 am and 11:00 am on September 12, 1973.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obained by a prepaid telephone call on September 7, 1973, to the Office of the Chairman of the Subcommittee (telephone: 615-483-8611 ext. 37995) between 9:00 am and 4:00 pm eastern time.

(e) Questions may be asked only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) Copies of minutes of public sessions will be made available for copying, in accordance with the Federal Advisory Committee Act, on or after December 11, 1973, at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., upon payment of all charges required by law.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.73-18763 Filed 8-31-73;9:46 am]

[Docket No. RM-50-3]

FRIENDS OF THE EARTH AND RALPH NADER

Memorandum and Order Regarding Filing of Petition for Shutdown of Certain Reactors

On July 16, 1973, Friends of the Earth and Ralph Nader (petitioners) filed the above-styled petition seeking the shutdown of twenty licensed nuclear power plants identified by cross-reference to an appeal pending in the United States Court of Appeals for the District of Columbia Circuit (*Nader, et al.* v. *Ray, et al.*, No. 73-1733).[1] Comments on the legal and substantive safety matters covered by the petition, including the need, if any, for emergency action were requested, by means of a FEDERAL REGISTER notice (38 FR 19855, July 24, 1973), from the affected licensees, the Regulatory Staff, and any other interested persons by July 31, 1973. Responsive comments were received from the nineteen affected licensees (filed jointly), the General Electric Company, Combustion Engineering, Inc., Westinghouse Electric Corportation, Babcock and Wilcox, Consolidated National Intervenors, the Commission's Regulatory Staff, Paul W. Rosenberg, and John H. Pingel.[2]

The petition sought the same relief requested in *Nader* v. *Ray*, "based on the identical facts, the identical affidavits and the identical legal contentions," (petition, p. 1), and incorporated by reference some, but not all, of the pleadings and affidavits filed in that litigation. No new affidavits or other proffers of evidence accompanied the petition.

The Commission has determined to treat the petition as one which requests the agency "to issue, amend, or rescind any regulation" within the meaning of 10 CFR § 2.802. Notice of filing of the petition, as required by 10 CFR § 2.802, has previously been published. 38 FR 19855 (July 24, 1973). Upon consideration of the petition, the responsive comments and the entire record in *Nader* v. *Ray*,[3] the Commission has determined that the petition must be denied for the reasons set forth below.

Each of the twenty reactors referred to in the petition is required to have "a system to provide abundant emergency core-cooling" 10 CFR Part 50, Appendix A, Criterion 35. The Commission has promulgated "Interim Acceptance Criteria" (IAC) for emergency core cooling systems (ECCS) which implement the broad general requirement of Criterion 35 and provide the basis for judging the acceptability of ECCS performance. 36 FR 12247 (June 29, 1971); 36 FR 24082 (December 18, 1971). These systems are to counter a major accident hypothesized for design purposes. The record is uncontradicted in showing that the accident is a highly unlikely event. The Commission has also instituted a rulemaking proceeding, Docket No. RM-50-1, "for the purpose of aiding the Commission in its determination as to whether or not the subject [Interim Acceptance Criteria] should be retained in [their] present form or adopted in some other form." 36 FR 22774 (November 30, 1971). The record in that rulemaking proceeding—involving months of hearings, over 22,000 pages of transcript, and thousands of pages of exhibits—has re-

[1] This appeal is from the dismissal, on June 28, 1973, of the complaint in *Nader, et al.* v. *Ray, et al.*, Civil Action No. 1058-73, by the United States District Court for the District of Columbia. Hereinafter, references to *Nader* v. *Ray*, without further specification, are intended to encompass the entire litigation in both the District Court and the Court of Appeals.

[2] Mr. Pingel's submission was captioned for filing in another proceeding simultaneously noticed in the FEDERAL REGISTER. Because it consists solely of a challenge to petitioner Nader's position, we treat it as filed in this proceeding as well.

[3] Those portions of the litigation record not incorporated by reference in the petition have been relied upon and incorporated in the comments of others.

cently been forwarded to the Commission for a final decision based on the entire record. It is presently anticipated that such a decision will be rendered by the end of 1973.

Petitioners, who did not participate or seek to participate in the ECCS rulemaking proceeding,[4] filed suit in the United States District Court for the District of Columbia on May 31, 1973, seeking an immediate shutdown of the twenty named plants (each of which complied with the Interim Acceptance Criteria). The allegations of the lawsuit were variously worded at different stages of the litigation. Petitioners have summarized their position, which they say is unchanged, at pages 5 and 6 of their petition, as follows:

1. The Commission is required by law to make a definitive and unequivocal finding that a nuclear power plant is in compliance with Commission regulations in order to permit continued operation of the plant.

2. At any time the Commission cannot make this finding with respect to a plant, the plant must be shut down.

3. The Commission has established the Interim Acceptance Criteria as the test to determine whether the nuclear power plants involved in this litigation [sic] have effective Emergency Core Cooling Systems, *i.e.*, whether they comply with Design Criterion No. 35.

4. The experts regularly relied upon the Commission [sic] (set forth in Paragraph 30 of the complaint and paragraphs 37 to 51 of the Affidavit of Kendall) state that compliance with the Interim Acceptance Criteria does not assure the effectiveness of the ECCS.

5. The undisputed inadequacy of the Interim Acceptance Criteria to provide the crucial assurance for which they were promulgated—assurance of ECCS effectiveness—prevents the Commission from making a definitive and unequivocal finding that there is assurance that each of these 20 nuclear power plants has an effective ECCS, *i.e.* that it is in compliance with Design Criterion No. 35.

6. Therefore, the Commission has no choice but to shut down each plant until such time as it can make a definitive and unequivocal finding that there is assurance that each plant has an effective ECCS, *i.e.* is in compliance with Design Criterion No. 35.

Petitioners[1] case rests upon the assertion that plants should be shut down because compliance with the IAC does not "assure" ECCS effectiveness. Neither the statute nor the Commission regulations in issue, however, require such an unattainable guarantee of risk-free operation. *Nader* v. *Ray* Conclusion of Law No. 11. We do not live in a riskless society, nor could modern technological societies exist on that basis. We are, of course, aware of the potential risks in nuclear matters if safety is not given the very close attention it deserves. In this regard, the LOCA has been characterized as "perhaps the most-studied hypothetical accident in history". Affidavit of Mattson, paragraph 4. These studies continue. It is precisely because of this perceived risk that we have always imposed stringent and overlapping protective measures in implementing the concept of defense in depth. However we cannot—and do not—claim "assurance" as an absolute.

Resting upon an assumed (but impossible) standard of 100 percent assurance, petitioners build their case upon what they claim is the "undisputed inadequacy of the Interim Acceptance Criteria". But the IAC can be viewed as "inadequate" only if petitioners' notion of absolute risklessness is accepted. We reject petitioners[1] attempt to bootstrap their theory into a conclusion of inadequacy.

Rather, the regulatory process turns upon the concept of "reasonable assurance" to public health and safety. See *Power Reactor Development Co.* v. *International Union*, 367 U.S. 396 (1961); *Nader* v. *Ray*, Conclusion of Law No. 11; 10 CFR 50.35(c), 50.40(a), 50.57(a)(3); 10 CFR Part 50, App. A, Introduction. Measured by this standard, we find, as our regulations require, that reactors operating under the IAC provide reasonable assurance of protection to the public health and safety in the highly unlikely event of a major loss-of-coolant accident.

Measured by the appropriate standard—one of reasonable assurance—the record supports the use of the Interim Criteria. Petitioners' case ignores the substantial showing of scientific and engineering support for the Criteria. See, e.g., affidavit of Dr. Hanauer. Of course there is a variety of expert opinion in the ECCS rulemaking record—ranging from those who take the view that even the Interim Criteria are too conservative to those few who have reservations about some aspect. None of the experts upon whom petitioners rely supports the extraordinary relief they seek. Indeed, as shown in Dr. Hanauer's affidavit, the selected excerpts cited by petitioners sometimes do not accurately reflect the entire views of the witnesses quoted. We have not been shown, nor have we found, any factual basis which would warrant short-circuiting the orderly culmination of the ECCS rulemaking proceeding. On the record presented in the instant case, we specifically reaffirm our conclusion that compliance with the IAC provides reasonable assurance that emergency core cooling systems will adequately protect the public health and safety.

From what has been said, it follows that there is neither an "undisputed inadequacy of the Interim Acceptance Criteria," an inability to make the required finding of reasonable assurance with respect to the public health and safety, nor any violation of the Commission's regulations.

For these reasons, the "Petition With Respect to Shutdown of Twenty Nuclear Power Plants" should be, and hereby is, denied.

Though unnecessary to the decision on this petition, we take this opportunity to comment upon the assumption, apparently held by these petitioners, that any violation of any regulation automatically requires a shutdown or similar relief. It goes without saying that a violation posing an undue risk to public health and safety will, of course, result in prompt remedial action, including shutdown if necessary. In other instances, however, the Commission has available a wide spectrum of remedies for dealing with violations of regulations. These include show-cause proceedings and proceedings for civil monetary penalties. The choice of the appropriate mechanism for correction of an assumed violation rests within the sound discretion of this agency. In exercising this discretion, our paramount concern is with the public health and safety. *Cf.* Memorandum and Order, "Petition for Derating of Certain Boiling Water Reactors", Docket Nos. 50-219, *et al.*, decided August 6, 1973.

Dated at Germantown, Maryland, this 29th day of August 1973.

By the Commission.

GORDON M. GRANT,
Acting Secretary
of the Commission.

[FR Doc.73-18725 Filed 8-31-73;8:45 am]

[4] The record shows that the petitioners have long had knowledge of the pending ECCS rulemaking proceedings. As noted, the hearings are now closed and the record has been certified to us for decision. The essence of the petition is a legal argument, which we find without merit *infra*. It presents no new substantive matters; indeed, it rests entirely on selective excerpts of matters already placed in the ECCS rulemaking record by others. In these circumstances, the instant petition plainly makes no showing of good cause for petitioners' belated participation in the ECCS proceeding. To the extent that these petitioners now seek to intervene in this long pending proceeding, their request is hereby denied.

Similarly, we deny the request of Howard S Vogel, Esq., for an extension of time within which the "Minnesota Environmental Control Citizen's Association" may comment on the petition. The shutdown petition itself presents purely a legal argument which we reject after examining the diverse views of those who did comment. Further legal argument would only add delay.

[Docket No. 20650; Order 73-8-126]

CIVIL AERONAUTICS BOARD

AIR TRAFFIC CONFERENCE OF AMERICA

Order of Disapproval, Approval, and Deferral Regarding New Fees for Travel Agents

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of August 1973.

I. *Background.*—By Order 72-4-114, April 20, 1972, Docket 20650, the Board disapproved those portions of the ATC Agents' Financial Responsibility Resolution (Agreement CAB 20727 as amended by CAB 20727-A1) dealing with the proposed ATC credit evaluation procedures for review of financial qualifications of existing agents and applicants alike.[1] In the same order the Board deferred action on, and requested further explanation and justification with respect to, those

[1] Under the Financial Resolution, as proposed, the requirement that agents procure a bond for the benefit of ATC members would have been deleted upon adoption of the suggested credit evaluation procedures. The proposal with respect to bonding was also disapproved in light of the Board's action on the credit review procedures.

provisions of the Financial Resolution relating to applicant and agency fees and fees paid by carriers participating in the ATC Standard Agent's Ticket and Area Settlement Plan. In this connection, the Board noted that it needed additional information with respect to the proposed increases in agent and carrier fees as well as the various changes contemplated in determining the amount of such fees, their allocation, and the purposes for which they are to be used.

The agreements now before the Board.—On October 30, 1972, the air carrier members of ATC filed comments in response to the questions posed by the Board in Order 72–4–114. The ATC comments stated that a review was made of the agency fees discussed in Order 72–4–114 and that appropriate adjustments were made in light of the then current conditions and that the net result was a reduction in those application fees as proposed in the Financial Resolution and an increase in the annual fees as provided in such Resolution. The ATC comments also included an attachment, which is affixed hereto as Appendix A, setting forth various resolutions adopted by the air carrier members of ATC reflecting, *inter alia*, the Board's action in Order 72–4–114 and the new fee schedules.[2]

[2] The existing and proposed ATC application and annual agency fees, as well as those portions of the proposed fees to be approved by the Board, are as follows:

	Existing	Proposed	Nonrefundable	Approved [a]
Application fees:				
New agent	$50	$320	$200	$77
Additional location	30	320	200	77
Transfer or assignment	50	175	175	4
Change of location	30	100	100	4
Change of name		20	20	4
Annual agency fees:				
Home office	[b]20	[c]100		[c]85
Branch location	[b]10	[c]100		[c]85

[a] All application fees to be refundable if application not approved.
[b] Does not include present temporary fee of $50 approved by Order 72-12-118, December 27, 1972.
[c] $300 maximum payment by any one agency will be eliminated.

Comments in response to the ATC comments and resolutions submitted as a result of Order 72–4–114 were filed by the American Automobile Association (AAA),[3] and the American Society of Travel Agents, Inc. (ASTA). Both AAA and ASTA urge the Board to reject the revised ATC annual and application fee proposals.

II. *Determination of the Board.*—Upon consideration of the ATC comments[4] and resolutions filed in response to Order 72–4–114, the comments filed in response to the ATC filings, and all available information, the Board has decided to (a) allow repeal of the Financial Resolution in its entirety; (b) disapprove those portions of Agreement CAB–5044–A158 pertaining to revisions in (1) the manner in which annual agency fees and application fees are determined and (2) the purposes for which such fees shall be used; (c) require amendment of appropriate sections of the ATC Agency Resolution and the ATC Sales Agency Agreement to conform to the methods of determining fees and the purposes for which they may be used as prescribed hereinafter by the Board; (d) approve a portion of the revised ATC annual agency fees and application fees as set forth in Agreement CAB 16874–A31 and disapprove those fees not approved; (e) approve Agreements CAB 5044–A158 and 16874–A31 to the extent they will, upon proper revision, meet the requirements of the Board as stated herein;[5] (f) require revision of those provisions of Agreement CAB 16874–A31 pertaining to the level of application and annual agency fees to insure that such provisions are in accord with the policies and fee levels established herein; (g) defer action on those portions of Agreement CAB 16874–A31 proposing increases in the amounts of annual fees paid by carriers concurring in the Area Settlement Plan; and (h) approve Agreement CAB 12076–A1 which allows application fees in addition to annual fees to be used to defray costs of tariff subscription.

[3] The initial AAA comments were filed on December 20, 1972. However, on December 22, 1972, AAA filed a motion to withdraw such comments without prejudice. Revised AAA comments were filed on December 29, 1972. Based on the information set forth in the AAA motion for withdrawal, such motion will be granted.

[4] The "ATC comments" as sometimes referred to hereinafter are those comments submitted by ATC on behalf of its member carriers pursuant to 14 CFR 263.

[5] We note that Agreement CAB 5044–A158 revises the annual agency fee payment date from January 10 to March 15. This development appears beneficial to the agents and our approval will extend to this provision. Also, CAB 5044–A158 refers to the continued payment of an initial fee under the provisions of the Sales Agency Agreement. As it is our understanding that the initial fee is to be eliminated upon payment of the revised application fee, CAB 5044–A158 and the Sales Agency Agreement should be amended to delete reference to an initial fee. Finally, we note that ATC proposes considerable change in the provisions of Section VI B of the Agency Resolution concerning accountability for and disbursement of agency fees. As ATC has not submitted any justification for these changes, we will expect that any revisions of the aforesaid provisions adopted pursuant to this order retain the major features of Section VI B. CAB 5044–A158 will also be disapproved, and should be amended, to the extent it would make the revised application fees applicable to Canada.

III. It appears that repeal of the Financial Resolution is in order, and the Board will approve Agreement CAB 20727–A2 which provides for such repeal. In this regard, the Board has already disapproved the credit evaluation procedures contained in the resolution and ATC has, in response to Order 72–4–114, excluded from its most recent proposal those agency and application fee increments attributable to credit investigations and reports by the ATC staff. Moreover, the provisions of the resolution are intended to be carried out through amendments to the basic ATC resolutions involved. Accordingly, it appears that no useful purpose would be served by keeping the Financial Resolution alive.

IV. The Board has concluded that the increases in annual agency fees and application fees as proposed by ATC should not be approved. However, it has been further concluded that smaller increases in such fees are in order and should be approved. Our conclusions herein are based on the basic premise that agents and applicants should not bear the cost of administering the agency program, and that the costs to be borne by agents and applicants should be limited to those items which the agents will use in the day-to-day conduct of their travel agency business as a representative of the nation's air carriers. Thus, the Board has determined that the air carriers should bear the cost of selecting agents and administering the agency program, and that agents and applicants should be required to meet the day-to-day operational costs of doing business with the air carriers.

The first of these decisions is based upon our conception of the travel agents as the alter ego of the carriers for the purpose of the sale of air transportation, as we recited at length in *ATC Resolution on Travel Agents' Commissions*, Order 70–12–165, pages 6–7. As such, it is apparent that the selection and retention of agents is a vital and integral part of an air carrier's sales activities, for which reason the costs associated with these functions should be borne by the carriers involved. We see no reason for applying a different policy to the air carriers' bearing the costs of selecting, appointing, and retaining agents than we have with regard to their compensating their agents—all of these functions are merely extensions of the carriers' in-house sales activities and do not warrant funding from other than the principal beneficiaries, the carriers.

On the other side of the coin, there are numerous costs which agents should bear as necessary to the proper conduct of their business. This leads us first to consideration of the annual agency fees. The Board will allow a fee of $85 for main office locations and $85 for branch office locations. From examination of Appendix B,[6] page 3, it can be seen that the $85 amount is in accord with the policies enunciated earlier herein. Thus, the

[6] Appendices A and B filed as part of the original document.

Board will allow the carriers to charge the agents for those expense items associated with publications and ticketing equipment and expect the carriers to bear the cost of items associated with general and administration costs.

Concerning the individual items to be covered by the allowable fee it can be seen that such items involve materials and services for which the agent, in carrying out its day-to-day business, should have the operational and cost responsibility. In other words, these items, just as commission and agency administration costs are properly assumable by the air carriers, are costs which the agents should assume as costs of engaging in business. In this connection, in Order 73–4–3, April 2, 1973, the Board denied review of Order 72–12–118 which approved a continued temporary annual fee of $50. In so doing the Board noted that such annual fee was approximately the same as the subscription costs to ATC to send tariffs to agents. This situation appears to remain the same and thus the $48 cost to agents does not appear unreasonable.[7] As to the cost associated with agents' identification plates, processing ticket requisitions, and ticket shipping charges, the ATC comments in support of these charges appear to be reasonably detailed and acceptable. Here again these costs cover materials and services which the agent should pay for.

It should be noted that Agreement CAB 16874–A31 would eliminate the $300 maximum payment in effect prior to the Board's action permitting the $50 temporary annual fees now in effect. The Board's decision herein will allow $300 maximum payment to lapse. In this regard, the Board realizes that this action will increase the annual fees for those large firms which have several agency locations. However, we feel that the decision is also in accord with the policies established herein as each location will require the materials and services covered by the $85 fee.[8]

With regard to application fees, the Board will allow a fee of $77 for each new agent and for each additional agency location. In addition there will be a fee of $4 each for transfers, changes of location and changes of name. As in the case of annual fees, the Board has determined that agents should bear the costs of publications and ticketing equipment and the carriers should bear the cost of the remaining items (*i.e.* site inspections and reports and general and administration costs). Comparing the application fees to be approved by the Board with those in existence and those proposed by ATC,[9] it can be seen that the allowable fees will be somewhat more (with the exception of transfers and changes in location which will be reduced) than those currently in effect and considerably less than those proposed by ATC. It should also be noted that the application fees allowed by the Board will be completely refundable in the event the application is rejected and we will expect ATC to revise the agreements now before the Board accordingly.

The application fees to be allowed by the Board are to cover essentially the same items as the annual agency fees by existing agents. Thus, if a new applicant is approved, his application fee will cover the cost of materials (*i.e.* identification plates and handbook revisions) which he will use in his day-to-day travel agency business and the services (*i.e.* distributing, mailing, packing, handling and transportation) associated with obtaining such materials and other materials such as tariffs and ticket stock. The same holds true for applications with respect to new branches, and to a lesser degree, ownership changes, location changes and name changes. That portion of the application fee covering tariffs, $45, appears reasonable. In this connection, the Board understands that both annual and application fees are used to cover mailing costs of tariffs. Thus, ATC is billed $45 for the first year for mailing costs of tariffs to be issued to new agents and new branches, and since new agents and new branches will not be paying annual fees under the procedures approved herein the $45 will be used to cover tariff subscriptions throughout the year.[10] The $11 provision in the application fee for Travel Agents Handbook cost and revisions also appears reasonable and will similarly be allowed by the Board.

With respect to the $4 charge for the agent's identification plate ATC advises that the carriers now bear this cost. However, we believe such plates to be a tool used directly in the business of the agent and thus a legitimate expense for the agent.

As to the charges for processing ticket requisitions and ticket shipping charges included in the proposed application fees, these charges, based on the explanation provided by ATC, appear reasonable. In this connection, we note that ATC has apparently taken into consideration the fact that new applicants and new branches may not replenish their ticket stock in the first year of operation as often as existing agents might, and therefore, the application fee is limited to one half the annual fee costs of these two charges. This appears proper.[11]

In light of the foregoing, the air carrier members of ATC should undertake revisions in Agreement CAB 16874–A31, and any other applicable resolutions, to bring such agreement and resolutions into conformance with the Board's determinations herein as to proper applicant and agency expenses and fee levels.[12]

V. The ATC comments now before the Board include amendments to various sections of the Area Settlement Plan which establish the amounts of fees to be paid by carriers concurring in the plan. Thus, ATC proposes to increase the fees paid by IATA-non-ATC carriers and non-IATA carriers from $500 to $2,000. In addition, the members of ATC Canada concurring in the Plan would be required to pay a fee of $2,000 whereas, at the present time, they pay no specific predetermined fee amount.

At the present time the above-mentioned classes of carriers pay, pursuant to paragraph 37 of the Settlement Plan, the cost of standard ticket stock prorated on the basis of the number of tickets settled under the Plan for each member.

In addition, each carrier, with the exception of members of ATC Canada, is required to pay a $500 fee for expenses not covered by Paragraph 37. ATC has proposed to increase the latter fee to $2,000. However, in increasing such fee ATC has not provided any justification. In this connection, in Order 72–4–114 the Board pointed out that it needed additional information on, and justification for, the increased carrier fees and the purposes for which they would be used. However, ATC, in its response to Order 72–4–114, merely pointed out that the 48 non-ATC participants in the plan obtained the same benefits as ATC members (*e.g.* utilization of all sales agency locations throughout the country as their sales outlets without maintaining their own sales offices or outlets) at what would be a cost of only 25¢ per sales out-

[7] The same conclusion appears applicable to the $3 cost of Handbook revisions included in the $48.

[8] The Board also notes that Agreement CAB 16874–A31 eliminates that part of Paragraph 20 of the ATC Sales Agency Agreement requiring payment of an initial annual agency fee. This action appears appropriate in that the payment of such a fee and an application fee as hereinafter approved would result in duplicative charges. It should be noted that an applicant will no longer pay an annual fee in the year in which an application is filed for a new agency. If an agent files for a new location then an annual fee for that location will not be necessary for the year in which the application was filed. In this regard, we expect ATC to make appropriate revisions, where necessary, in the Agency Resolution and Sales Agency Agreement to insure that this policy is carried out.

[9] See footnote 2, *supra*.

[10] At this time the ATC Tariff Subscription by Agents' Resolution specifies that annual fees are to be used to cover the costs of industry passenger rules and fares tariffs. However, as indicated earlier, ATC has filed an amendment (Agreement CAB 12076–A1) to the resolution to provide that the costs of the tariffs shall be defrayed from "agency fees." This agreement appears in accord with the objectives of the tariff portions of the agency and application fees described herein, and, accordingly, we will approve Agreement CAB 12076–A1.

[11] In the resolutions submitted by ATC in response to Order 72–4–114, ATC had deleted the cost ($89) of a ticket imprinter from the itemization of expenses to ATC of processing applications. Thus, ATC asserts that it will require the purchase of an imprinter by the applicant only when the applicant does not have an imprinter and in such cases payment is made to ATC rather than the manufacturer as ATC commits for the imprinters in bulk and therefore effects a savings to the purchaser. ASTA in its comments questions the $89 figure and asks what ATC pays for the imprinter. The Board has been advised by ATC that the price it pays for the imprinter is $89 and that the agent is free to purchase the imprinter directly from the manufacturer if he wishes.

[12] As the various costs associated with site inspections and reports which were to be included in the application fee as proposed by ATC will be disallowed as expenses of the carriers, there would be no purpose served in discussing the substantive aspects of such costs.

let. The ATC went on to elaborate on the benefits the carriers would derive from the payment of their fees for participation in the plan without providing information as to the specific ATC expenses that would be covered by such fees. Thus, ATC explained that the fees would be applicable to the current operating costs of the Plan and to defray, partially, the expenses of those ATA departments which administer the Plan. In addition, Agreement CAB 16874–A31 would have the aforesaid fees treated in the same manner as agency application fees (*i.e.* defraying the costs of the agency program). However, no information as to what specific costs of the program would be covered by these fees or how the amount of the fees was arrived at was submitted by ATC. In this connection, we note that the IATA, non-ATC participants have some say in the activities of the Interconference Area Settlement Plan Committee (IASPC) whereas the non-IATA participants who pay the same fee do not participate in the TASPC.

In addition to the foregoing, the Board notes that the ATC now has in effect a resolution (Agreement CAB 16874–A30) which provides for the addition of a new paragraph to the Settlement Plan and the establishment of a budget by the IASPC to provide for expenditures for other than specific items listed in paragraph 37, with assessment to members on the basis of (a) 50 percent distributed equally to all members and (b) 50 percent prorated to members in proportion to the number of tickets settled under the Plan. Moreover, the Board understands that the classes of carriers referred to above are considered as members for purposes of Agreement CAB 16874–A30.

In light of the foregoing, the Board is unclear as to the specific purpose of the carrier fees in question and the method of their determination and their allocation. Therefore, the Board requests the air carrier members of ATC to provide a complete explanation of those fees (*i.e.*, those fees payable by non-ATC carriers concurring in the Area Settlement Plan pursuant to Paragraph 33 thereof) including but not limited to the following: what specific expenses associated with the ATC agency program are to be covered by these fees; how do these expenses differ from those referred to in Appendix A and B[6] hereto with respect to the proposed ATC expenses to be covered by the ATC proposed agency and application fees; what is the exact method of determining the amount of the fees existing and proposed to be paid by the carriers in question; how does, or will, Agreement CAB 16874–A30 affect the computation of the participation fees for the carriers in question? In answering the foregoing it is requested that the basis for each expense item be provided and the nature of each such item. It is also requested that all other information necessary for complete understanding of these fees be provided. In addition, it is requested that complete justification and information be provided for Agreement CAB 16874–A30, including the specific expenses to be covered thereby.

In light of the foregoing, the Board does not find that the agreements approved herein, to the extent so approved, are adverse to the public interest or otherwise in violation of the Act, and, to the extent disapproved, the Board does find that the agreements herein are adverse to the public interest.[13]

Accordingly, it is ordered, That:

1. Agreements CAB 20727–A2, and 12076–A1 be and they hereby are approved;

2. Agreements CAB 5044–A158 and 16874–A31 be and they hereby are disapproved to the extent they would (a) estabilsh ATC annual agency fees and application fees in excess of those levels indicated herein as proper; (b) revise the manner in which annual and application fees are determined and the purposes for which such fees shall be used; and (c) make the revised application fees applicable to Canada;

3. Agreements CAB 5044–A158 and 16874–A31 be and they hereby are approved to the extent they will, upon proper revision, as indicated by the Board herein, provide for (a) annual agency fees and application fees as determined by the Board herein; (b) methods of determining annual and application fees and the purpose of their use as determined by the Board herein; and (c) all other Board determinations herein and all other changes which are necessary to correct technical errors in the agreements as submitted or inconsistencies with the Board's determinations herein;

4. Action on those provisions of Agreement CAB 16874–A31 proposing increases in the amounts of annual fees paid by carriers concurring in the Area Settlement Plan and the purpose for which they shall be used be and it hereby is deferred;

5. Action on Agreement CAB 16874–A30 be and it hereby is deferred;

6. The air carrier members of ATC shall within 60 days from the date of this order (a) file amendments to Agreements CAB 5044–A158 and CAB 16874–A31 revising such agreements to conform to the principles with respect to, and amounts of, ATC annual agency fees and ATC application fees as set forth herein by the Board; (b) file the information requested herein with respect to the proposed increases in non-ATC carrier fees for participation in the Area Settlement Plan; and (c) file the information requested herein with respect to Agreement CAB 16874–A30;

7. The Motion of AAA herein to withdraw comments be and it hereby is granted;

8. To the extent not granted herein, all outstanding requests be and they hereby are denied; and

9. This order shall be served upon the Air Traffic Conference of America, the American Society of Travel Agents, the Association of Retail Travel Agents, American Automobile Association, and the Department of Justice.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73–18652 Filed 8–31–73;8:45 am]

[13] ASTA, in its comments on the agreements now before the Board, asserts that the Board should not approve the proposed program until completion of the *ATC Bylaws Investigation,* (Docket 23542). The Board does not believe that such investigation is the proper vehicle for determining the amount of applicant and agency fees, or that this docket should be deferred any further to the extent it is possible to go forward at this time.

[Docket No. 25373]

AIR WINDSOR, LTD.

Notice of Postponement of Prehearing Conference and Hearing Regarding Foreign Air Carrier Permit Application—Canada-United States—Casual, Occasional, or Infrequent Service

Upon consideration of the request of Air Windsor, Limited, by letter dated August 21, 1973, the prehearing conference and hearing in this proceeding previously assigned to be held on September 12, 1973 (38 FR 22178, August 16, 1973), are postponed to September 26, 1973, at 10 a.m. (local time) in Room 701, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Hyman Goldberg.

Dated at Washington, D.C., August 28, 1973.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.73–18650 Filed 8–31–73;8:45 am]

CHICAGO DEPARTMENT OF AVIATION

Notice of Meeting

Notice is hereby given that a meeting with the Chicago Department of Aviation will be held on September 25, 1973, at 2:30 p.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., to acquaint the Board with its continued efforts to improve Midway Airport airline scheduling.

Dated at Washington, D.C., August 29, 1973.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73–18651 Filed 8–31–73;8:45 am]

[Docket No. 25587]

CHICAGO-LOS ANGELES FARE REDUCTIONS CASE

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of

1958, as amended, that a hearing in the above-entitled proceeding will be held on September 19, 1973, at 10 a.m. (local time), in Room 1031, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on August 1, 1973, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 29, 1973.

[SEAL] MILTON H. SHAPIRO,
Administrative Law Judge.

[FR Doc.73-18649 Filed 8-31-73;8:45 am]

COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1973

Addition to List

Notice of proposed additions to the Initial Procurement List, August 26, 1971 (36 FR 16982), was published in the FEDERAL REGISTER on December 14, 1972 (37 FR 26628).

Pursuant to the above notice the following commodity is added to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITY

CLASS 6230		*Price*
Light, Marker, Distress (RF)		
6230-067-5209	EA.	$10.72

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-18611 Filed 8-31-73;8:45 am]

PROCUREMENT LIST 1973

Additions to List

Notice of proposed additions to the Initial Procurement List, August 26, 1971 (36 FR 16982), was published in the FEDERAL REGISTER on December 14, 1972 (37 FR 26628).

Pursuant to the above notice the following commodities are added to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITIES

Class 6532		*Price*
Clothing, Operating Room (JO)		
6532-335000	EA.	$4.71
6532-335010	EA.	4.98
6532-172-3506	EA.	2.87
6532-172-3507	EA.	2.87
6532-172-3509	EA.	2.74
6532-935000	EA.	4.17
6532-935010	EA.	3.64
Class 7690		
Decalcomania (RF)		
7690-310-9208	HD.	$24.61
7690-858-3405	HD.	14.53
7690-858-3366	HD.	14.53
7690-328-9507	HD.	50.50
7690-329-0204	HD.	50.50
7690-857-9662	HD.	11.32

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-18612 Filed 8-31-73;8:45 am]

PROCUREMENT LIST 1973

Notice of Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed additions of the following commodities and service to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITIES

CLASS 7340

Fork (Plastics—Heavy Duty)
7340-022-1315
Knife (Plastic—Heavy Duty)
7340-022-1316
Spoon (Plastic—Heavy Duty)
7340-022-1317

CLASS 7360

Plastic Knife, Fork, and Spoon in Cellophane Bag
7360-634-4800

SERVICE

INDUSTRIAL CLASS 7331

Mailing Service
U.S. Department of Agriculture
Washington, D.C.

Comments and views regarding these proposed additions may be filed with the Committee on or before Oct. 4, 1973. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-18613 Filed 8-31-73;8:45 am]

PROCUREMENT LIST 1973

Notice of Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed additions of the following Military Resale Commodities to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITIES

Class 7920

Mop, Block Sponge, Automatic
7920-B510-423
Refill for Mop, Block Sponge, Automatic
7920-B510-433

Comments and views regarding these proposed additions may be filed with the Committee on or before October 4, 1973. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-18614 Filed 8-31-73;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Public Availability

Environmental impact statements received by the Council on Environmental Quality from August 20 through August 24, 1973.

NOTE.—At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250 202-447-3965.

FOREST SERVICE

Draft

Boundary Waters Canoe Area Plan, Superior N.F. 08/16. Cook, Lake, St. Louis Counties. The proposed action is the development and implementation of a land use management plan containing management direction and policies for the administration of the 1,030,000 acre Boundary Waters Canoe Area (54 pages). (ELR Order No. 31356.) (NTIS Order No. EIS 73 1356-D.)

SOIL CONSERVATION SERVICE

Final

Narge Creek Watershed, Hopkins County, Ky., August 21. The statement refers to a proposed flood protection project on the 4,205 acre watershed. Project measures include 6.2 miles of channel works. Seventy acres will be committed to the action (39 pages). Comments made by: USDA, COE, DOI, and HEW. (ELR Order No. 31393.) (NTIS Order No. EIS 73 1393-F.)

ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory Matters: Mr. Robert J. Catlin, Director, Division of Environmental Affairs, Washington, D.C. 20545, 202-973-5391. For Regulatory Matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, 202-973-7373, Washington, D.C. 20545.

Final

Grand Gulf Nuclear Station, Units 1 and 2, Claiborne County, Miss., August 23. The proposal is the issuance of a construction permit to the Mississippi Power and Light Co. The station will employ identical boiling water reactors, each producing 3,833 MWt and 1,290 MWe (net), with future levels of 4,025 MWt and 1,380 MWe anticipated. Cooling will be through wet, natural-draft towers, with 36,000 g.p.m. of the 58,000 g.p.m. flow of Mississippi River water being consumed through evaporation and drift. The 2,300 acre site is primarily wooded; construction activity will disturb 345 acres. Removal of vegetation will promote erosion, with adverse effect to Gin and Hamilton Lakes (approximately 350 pages). Comments made by: AHP, USDA, COE, DOC, DOI, DOT, FPC, HEW, EPA, and State agencies. (ELR Order No. 31396.) (NTIS Order No. EIS 73 1396-F.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-967-4335.

Final

Importation of South African Fur Sealskins, August 20. The statement considers a request from the Fouke Company, a major U.S. fur processor, for an economic hardship exemption from the moratorium, and possible a waiver of the moratorium on the importation of marine mammals into the United States under provision of the Marine Mammal Protection Act of 1972 (P.L. 92-522). The National Marine Fisheries Service is investigating the feasibility and the desirability of allowing importation into the United States of South African owned skins from the South African fur seal harvest. The sole impact of the action is socio-economic (89 pages). Comments made by: USDA, DOL, and concerned citizens. (ELR Order No. 31380.) (NTIS Order No. EIS 73 1380-F.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-7168.

Draft

Kern River, California Aqueduct, Kern County, Calif., August 17. The proposed project is a flood control project consisting of a concrete chute, gate structure and sedimentation basin located on the Kern River in the San Joaquin Valley. The project will require 50 acres of land. (26 pages). (ELR Order No. 31372) (NTIS Order No. EIS 73 1372-D.)

Oklawaha River Basin, Four River Basins, Florida, August 20. The proposed project is the reconstruction of the levee and deepening of Canal C-231 from Lake Griffin to Moss Bluff, and construction of levee L-211. The project will allow a greater storage of water in Lake Apopka and a higher discharge capacity for C-231. Adverse impacts are: increased turbidity, loss of fish and wildlife habitat, loss of 48 acres of timber and pasture land, increased erosion, and alteration of aesthetic qualities (62 pages). (ELR Order No. 31375.) (NTIS Order No. EIS 73 1375-D.)

Jekyll Island Beach Erosion Control, Georgia, August 10. Proposed is the restoration and periodic nourishment of 27,000 feet of ocean beach, and the construction of a 1,000' rubblestone terminal groin. There will be disruption to benthic, plankton, and nekton communities during construction, and after construction there will be an increased mortality rate of young loggerhead sea turtles (Savannah District) (47 pages). (ELR Order No. 31315.) (NTIS Order No. EIS 73 1315-D.)

Wolf and Jourdan Rivers, Mississippi, August 13. The proposed actions are the channeling and dredging of 1.6 miles of the mouth of the Wolf River and 2 miles of the Jourdan River. The project will increase turbidity and eliminate fish and crab habitat and aquatic organisms (46 pages). (ELR Order No. 31335.) (NTIS Order No. EIS 73 1335-D.)

Beach Erosion Control, Presque Isle Peninsula, Pa., August 15. The proposed project is the construction of three partial breakwaters along the north shore of Presque Isle State Park, to control beach erosion. The project will destroy some lake bottom habitat, disrupt recreation, and affect the littoral drift of sandspits at Gull Point, thus disrupting unique ecological processes (116 pages). (ELR Order No. 31354.) (NTIS Order No. EIS 73 1354-D.)

Buckeye Pipeline Co., Pipeline—Delaware River, several counties in Pennsylvania and New Jersey, August 15. The project is the construction of a 20-inch diameter, subterranean pipeline from Linden, New Jersey to Macungie, Pennsylvania, involving river crossing permits for the Delaware River, Delaware and Raritan River Canal, the Millstone River, the Raritan River and the Rahway River. A total of 74.8 miles of pipeline would exist. Increased turbidity, loss of aquatic life, flora and fauna would occur. Erosion and sedimentation will increase. An adverse aesthetic impact will exist and possible pipeline ruptures and leakages will occur (72 pages). (ELR Order No. 31355.) (NTIS Order No. EIS 73 1355-D.)

Scotts Creek, North Fork Scotts Creek, Newberry County, S.C., August 23. The proposed project consists of clearing and snagging in Scotts Creek and its tributary North Fork Scotts Creek, for a total of 2.42 miles. Two bridges will be replaced. Increases in water turbidity and sedimentation will occur (11 pages). (ELR Order No. 31400.) (NTIS Order No. EIS 73 1400-D.)

Aubrey Lake, Elm Fork, Trinity River, Denton, Cooke, and Grayson County, Tex., August 16. The proposed project is the construction of Aubrey Lake for water supply, flood control, recreation and fish and wildlife. A total of 43,500 acres of land, 71 acres of stream and 43 miles of stream will be inundated. The project will displace 280 residences, one cemetery and inundate 26 prehistoric and historic sites. Adverse impacts stemming from the project are: loss of agricultural and timber land; loss of aquatic and wildlife resources (extensive damage will occur upon amphibians, reptiles, mammals, and upland wild and game birds (339 pages). (ELR Order No. 31364.) (NTIS Order No. EIS 73 1364-D.)

Taylors Bayou, Jefferson County, Tex., August 21. The proposed project will provide flood control and major drainage in the Taylors Bayou Watershed. Features include enlarging 1.8 miles of the Gulf Intracoastal Waterway, an outfall canal from Taylors Bayou to the GIWW. Included is a diversion channel from the lower channel to GIWW, and a gated structure in the diversion channel. Spoil will affect 2,913 acres of land including 625 acres of coastal wetlands. An additional 1,610 acres of land will be converted from land to water use. Dredging will increase turbidity. A substantial loss of fish and wildlife habitat will occur (45 pages). (ELR Order No. 31394.) (NTIS Order No. EIS 73 1394-D.)

Final

Arkansas River and Tributaries, John Martin Dam, August 20. The proposed project involves the study for the Arkansas River Floodway—Brewster to Florence, Florence, Portland, Pueblo, La Junta Flood Protection Projects and the Fountain Dam and Lake. Construction includes jetties, levees, floodwalls, dams and channelization measures. Adverse impacts are: Florence, Portland, Pueblo and La Junta—loss of fish and wildlife (game birds); Arkansas River Floodway—loss of fish and wildlife and aesthetic qualities; Fountain Reservoir—loss of wildlife, excessive eutrophication of the Fountain Lake, displacement of 75 families and 5 businesses and loss of 7,140 acres (133 pages). Comments made by: USDA, EPA, FPC, HEW, DOI, DOT, DOC, State and local agencies and concerned citizens. (ELR Order No. 31376.) (NTIS Order No. EIS 73 1376-F.)

Supplement, Blue Marsh Lake Project, Tulpehocken Creek, Berks County, Pa. The project is the construction of the Blue Marsh Reservoir, consisting of an earth and rockfill dam 93 feet high. The reservoir will be 8 miles in length and 960 acres. A total of 5,570 acres of land will be acquired. Relocations will include 100 families, 8 miles of road, 26 miles of power lines, 14.7 miles of telephone lines, 25 miles of oil pipelines and 2 historical sites. Major adverse impacts are loss of land, wildlife, and aesthetic quality. Increased concentrations of arsenic and other nutrients in the lake will accelerate eutrophication and possibly create other potentially hazardous conditions. The statement is a supplement to a final statement received on April 16, 1971 (197 pages). (ELR Order No. 31333.) (NTIS Order No. EIS 73 1333-F.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

Final

Allamuchy Mountain State Park, Sussex and Warren Counties, N.J., August 24. The statement refers to the proposed granting of a request by the State of New Jersey for assistance from the Federal Land and Water Conservation Fund in purchasing 3,604.6 acres to be added to the park. Approximately 2,800 acres would be left in its natural state for low intensity recreational use. A ski area will be developed in the future (approximately 80 pages). Comments made by: USDA, COE, DOI, DOT, EPA, and HUD. (ELR Order No. 31403.) (NTIS Order No. EIS 73 1403-F.)

BUREAU OF RECLAMATION

Draft

Hayden-Ault 345 kv Transmission Line, Colorado River, several counties in Wyoming, August 21. The proposed project entails the construction of 160 miles of 345-kv transmission line from Hayden, Colorado to Ault, Colorado and a new 345-kv substation near Ault. A total of 3,680 acres of land will be acquired for right-of-way. Loss of vegetation and wildlife habitat will occur (193 pages). (ELR Order No. 31395.) (NTIS Order No. EIS 73 1395-D.)

Curecanti-Shiprock No. 2 230-kv Transmission Line, New Mexico and Colorado, August 17. The action consists of the construction of the Curecanti-Shiprock No. 2 230-kv Transmission Line, Lost Canyon 69/115/230-kv Substation, and the necessary terminal facilities. The line would be 152 miles in length, use 15 acres of land at structure sites and 9 miles of new roads. Adverse impacts stemming from the project are: construction over the Cimarron River, Uncompahgre River, San Miguel River and Dolores River, thus adversely affecting aquatic habitat, disrupting wildlife habitat for 125 miles, and interrupting the drainage patterns along the 125 mile corridor (96 pages). (ELR Order No. 31368.) (NTIS Order No. EIS 73 1368-D.)

Supplement, Auburn Folsom South Unit, Supplement, several counties in California, August 6. The document is a supplement to the final environmental impact statement for the Auburn Folsom South Unit, Central Valley Project, filed November 13, 1972 (ELR Order No. 5616; NTIS Order No. EIS 72 5616-F). Response to comments on the final statements and new or updated information on power accomplishments is provided (395 pages). (ELR Order No. 31303.) (NTIS Order No. EIS 73 1303-F.)

BUREAU OF SPORTS FISHERIES AND WILDLIFE

Draft

Oregon Islands Wilderness Area, several counties in Oregon, August 17. The proposal recommends that 28 undisturbed Oregon Coastal islands and island groups be designated wilderness within the National Wilderness Preservation System. The proposal fur-

ther recommends that 27 additional islands, 25 in public domain and two withdrawn as sea lion refuges, be made wilderness when withdrawal as part of the Oregon Islands National Wildlife Refuge is completed. The proposal contains approximately 346 acres. The islands are distributed along 307 miles of Oregon coastline. An adverse impact is the committment of resources to the wilderness classification (37 pages). (ELR Order No. 31369.) (NTIS Order No. EIS 73 1369–D.)

NATIONAL PARK SERVICE

Big Thicket National Biological Reserve, several counties in Texas, August 17. The legislative proposal would establish a 68,000 acre Big Thicket National Biological Reserve in Hardin, Jefferson, Orange, Jasper, Polk and Tyler Counties in Texas. A total of 100 people will be displaced. An increase in the tourist industry would occur (37 pages). (ELR Order No. 31367.) (NTIS Order No. EIS 73 1367–D.)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Contact: Mr. Ralph E. Cushman, Special Assistant, Office of Administration, NASA, Washington, D.C. 20546, 202–962–8107.

Final

California, August 24. The statement refers to a subsidiary project of the Space Shuttle Program (for which a statement was filed July 25, 1972, ELR Order No. 4939, NTIS Order No. EIS 72 4939–F). Involved here is the establishment of a Main Engine Component and Subsystem Test Site at Air Force Plant 57, Santa Susana. Systems provided under the Apollo Program are capable, with modifications, of supporting the testing requirements. Increased noise levels generated by the tests will affect surrounding communities (82 pages). Comments made by: DOD, DOI, HUD, State and local agencies. (ELR Order No. 31404.) (NTIS Order No. EIS 73 1404–F.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590, 202–466–4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Lee County Route No. 53, Lee County, Ala., August 20. Proposed is the improvement of County Route 53, Wire Road, from southwest of the Auburn City limits to Sanford Avenue. Project length is 2.84 miles. Approximately 50 acres will be acquired for right-of-way (10 pages). (ELR Order No. 31385.) (NTIS Order No. EIS 73 1385–D.)

Fort Weaver Road, Honolulu County, Hawaii, August 20. The statement refers to the proposed improvement of Fort Weaver Road from the intersection of Interstate Route H–1 and Kunia Road to the boundary of the National Oceanic and Atmospheric Administration Observatory at Ewa Beach. Project length is 5.8 miles. Seventy-seven acres of cultivated sugar cane land would be converted to highway use. Adverse impacts include displacement of people, airborne dust during construction, and possible soil erosion (95 pages). (ELR Order No. 31388.) (NTIS Order No. EIS 73 1388–D.)

I–410, several counties in Louisiana, August 15. The project is the construction of 25.8 miles of a 54.0 mile Interstate 410 route. The facility will be six-laned and with controlled access. A total of 930 acres of land will be acquired. Displacements include one business and 57 families. The Westwego Airport will be affected with three airplane hangers, one small office, the main building, the Sperry Rand building and other buildings and tanks relocated. The facility will traverse 3 major streams increasing water pollution. Other adverse impacts stemming from the project are loss of land, changes in ground hydrology, and increased air and noise pollution levels (approximately 300 pages). (ELR Order No. 31342.) (NTIS Order No. EIS 73 1342–D.)

I–15, Dillion South and Dillion Connector, Beaverhead County, Mont., August 16. The proposed project is the construction of 5.6 miles of I–15 (Dillion South-Dillion South Connector). Two hundred and forty acres of agricultural land will be obtained for right-of-way. The project will traverse the Blacktail Creek causing increases in water pollution (22 pages). (ELR Order No. 31362.) (NTIS Order No. EIS 73 1362–D.)

SR 14 and SR 44, Bernalillo County, New Mexico, August 17. The proposed project consists of improvement of SR 14 for 6 miles and SR 44 for 0.6 mile. The project will displace 7 families and 3 businesses. Increases in air and noise pollution will occur (38 pages). (ELR Order No. 31365.) (NTIS Order No. EIS 73 1365–D.)

N.Y. Route 13, Ithaca to Cortland, Tompkins and Cortland Counties, N.Y., August 20. Proposed is the reconstruction of approximately 20 miles of N.Y.S. Route 13 from Warren Road in the Town of Lansing to I–81 in the Town of Cortlandville. The amount of land acquired and the number of families and businesses displaced will depend upon the route selected. Adverse impact to wildlife and bog swamp areas and to trees and vegetation will occur (115 pages). (ELR Order No. 31389.) (NTIS Order No. EIS 73 1389–D.)

N.Y. Route 31, Wayne County, N.Y., August 20. The proposed project consists of the improvement of approximately 20.5 miles of a section of Route 31, from the Wayne-Monroe County line to Route 14 in the Village of Lyons. Adverse effects are the acquisition of land for right-of-way, the loss of homes and farms, construction disruption, and impacts to wildlife and ecological systems (165 pages). (ELR Order No. 31390.) (NTIS Order No. EIS 73 1390–D.)

State Route 800, Monroe and Belmont Counties, August 13. Proposed is the relocation and improvement of a portion of State Route 800 between Barnesville and Woodsfield. The project consists of a two-lane highway, approximately 16.5 miles in length. Adverse effects of the action are the loss of farmland; loss of a small amount of woodland; and the taking of 22 residences, 7 farm operations, and 1 business. Five acres of Section 4(f) land are required from the Monroe Lake State Wildlife Area (33 pages). (ELR Order No. 31336.) (NTIS Order No. EIS 73 1336–D.)

I–78, Haafsville to Still Valley, several counties in Pennsylvania and New Jersey, August 22. The proposed project is the construction of a portion of I–78 from Haafsville, Pennsylvania to Still Valley, New Jersey. Depending upon alternate chosen the facility will be 28.2 to 32 miles in length and will acquire 70 to 252 acres of Class 1 farmland and 404 to 965 acres of Class 2 farmland. Relocations will involve 301 to 870 families, 34 to 75 businesses, 6 farms, 5 non-profit organizations, 3 churches and 1 school. Land from 9 public parks will be acquired. Other adverse impacts are: loss of wildlife and increased air and noise pollution levels (79 pages). (ELR Order No. 31397.) (NTIS Order No. EIS 73 1397–D.)

U.S. Highway 60, Parmer and Castro Counties, August 15. Proposed is the improvement of 14.6 miles of U.S. 60 from Friona to the Deaf Smith County line. The project will provide a four lane, divided facility with depressed median. Approximately 203 acres of agricultural, residential and commercial land will be committed to right-of-way (13 pages). (ELR Order No. 31346.) (NTIS Order No. EIS 73 1346–D.)

Final

Tutuila Perimeter Road, Aua to Afono, Sua County, American Somoa, August 20. The proposed project is the construction of the Aua to Afono road in Sua County on Tutuila Island. Length is 2.8 miles. The project will acquire agricultural and timber land, and will introduce air and noise pollution where it does not exist (approximately 100 pages). Comments made by: USDA, DOI, DOT, EPA, and American Somoa. (ELR Order No. 31383.) (NTIS Order No. EIS 73 1383–F.)

Route 40, New Haven County, Conn., August 20. The proposed project consists of the construction of the Boulevard Bridge and approaches to the Penn Central Railroad in New Haven. Project length is 0.5 mile. Four families will be displaced (72 pages). Comments made by: USDA, COE, DOC, DOI, EPA, HEW, HUD, OEO, and State agencies. (ELR Order No. 31386.) (NTIS Order No. EIS 73 1386–F.)

State Road 24, Alachua County, Fla., August 20. The proposed project provides for the construction of an interchange at State Road 24 and I–75, six laning of SR 24 to SW 23rd Terrace, four laning SR 24 from this point to North-South Drive, and providing a four lane facility from SR 24 at SW 23rd Terrace to State Road 331. Adverse impacts are displacement of residences and increased noise levels (68 pages). Comments made by: EPA, DOI, HEW, DOC, and State agencies. (ELR Order No. 31377.) (NTIS Order No. EIS 73 1377–F.)

F.A.P. Route 410, several counties, Ill., August 20. The statement is concerned with the construction of 89 miles of fully access controlled highway between F.A.I. 255 and Carbondale. Approximately 3,240 acres will be committed to the project. An undetermined number of residences and businesses will be displaced. Coal reserves scheduled to be either strip or deep mined will be crossed; air and noise pollution will increase (184 pages). Comments made by: HEW, DOI, DOT, COE, USDA, EPA, HUD, OEO, FPC, AHP, State, and local agencies. (ELR Order No. 31373.) (NTIS Order No. EIS 73 1373–F.)

F.A.S. Route 1600, Adams County, Ill., August 20. The proposed project is the improvement of FAS Route 1600, for 3.5 miles. The facility will require 37 acres of agricultural land and cross the Rock Creek. Increases in noise levels will occur (37 pages). Comments made by: USDA, AEC, DOI, DOT, EPA, FPC, and State agencies. (ELR Order No. 31378.) (NTIS Order No. EIS 73 1378–F.)

FAS Routes 595 and 2967, Washington and Keokuk Counties, Iowa, August 22. Proposed is the reconstruction of six miles of FAS Route 595 and 2967. Approximately 1.44 acres of Section 4(f) land from Lake Darley State Park will be committed to highway use (18 pages). Comments made by: USDA, HEW, DOI and one State agency. (ELR Order No. 31399.) (NTIS Order No. EIS 73 1399–F.)

U.S. 23, Louisa-Catlettsburg, Boyd and Lawrence Counties, Ky., August 20. The proposed project involves the reconstruction of U.S. 23 for a length of 20.5 miles. The amount of land required for right-of-way is unspecified. A total of 49 residences and 5 businesses will be displaced. Three cemeteries will be relocated. The project will traverse streams (requiring bridge structures), with impact upon water quality and drainage patterns (101 pages). Comments made by: COE, DOI, EPA, HEW, State, and regional agencies. (ELR Order No. 31387.) (NTIS Order No. EIS 73 1387–F.)

Route 40, St. Louis County, Mo., August 20. This action proposes the reconstruction and new construction of Route 40 on fully controlled access right-of-way. Project length is 1.7 miles extending from Lower Grove Avenue in the City of St. Louis. Four businesses will be displaced by the action (117 pages). Comments made by: USDA, EPA, HEW, DOT, OEO, State agencies, and concerned citizens. (ELR Order No. 31379.) (NTIS Order No. EIS 73 1389–F.)

Route 63, Boone and Callaway Counties, Mo., August 20. Proposed is the acquisition of right-of-way, grading and paving of approximately 5.9 miles of Route 63 to provide a dual lane facility between Columbia and Jefferson City. Bridges will be constructed across Cedar Creek and Turkey Creek. Approximately 215 acres are required for right-of-way. Thirty-two people will be relocated (26 pages). Comments made by: USDA, EPA, HEW, DOI, DOT, and State agencies. (ELR Order No. 31384.) (NTIS Order No. EIS 73 1384–F.)

S.H. 112 and U.S. 271, LeFlore County, Okla., August 20. The proposed project involves the improvement of 1.2 miles of U.S. 271 and 10.2 miles of S.H. 112. S.H. 112 will displace 7 families and require 400 acres of land; U.S. 271 will displace 15 families, and 7 businesses and will require 125 acres of land. S.H. 112 will traverse three streams, with adverse impact to water quality (44 pages). Comments made by: COE, EPA, DOC, HUD, USDA, State and local agencies. (ELR Order No. 31381.) (NTIS Order No. EIS 73 1381–F.)

I–95, Delaware Expressway, Delaware and Philadelphia Counties, Pa., August 20. The roadways involved in the project are Interstate I–95 (LR 795–B) and the Interstate highway (LR 762–3), (LR 67054–11) at the Philadelphia International Airport. Project length is 3.6 miles. The roadway will interconnect with other parts of I–95 already under construction (approximately 200 pages). Comments made by DOI. (ELR Order No. 31374.) (NTIS Order No. EIS 73 1374–F.)

I–240 Loop, Shelby County, Tenn., August 24. The projects encompassed in this statement provide for the completion of the northeast portion of the circumferential I–240 loop and for the construction of the U–101 connector route between U.S. 51 and I–240. Total length of both projects is 9.8 miles. A section 4(f) review for the 1.68 acre infringement on the John F. Kennedy Park has been prepared. Thirty businesses, one nonprofit organization, and 51 families will be displaced (189 pages). Comments made by: USDA, COE, DOI, EPA, HEW, TVA, State and local agencies. (ELR Order No. 31402.) (NTIS Order No. EIS 73 1402–F.)

U.S. COAST GUARD

Contact: Captain Sidney A. Wallace, Commandant (AWEP–73), U.S. Coast Guard, Washington, D.C. 20590, 202–426–2010.

Draft

International Convention, Prevention of Pollution, August 20. The proposed convention contains regulations for the prevention of pollution by oil; for the control of pollution by noxious liquid substances in bulk; for the prevention of pollution by harmful substances carried by sea in packages, or in cargo containers, or in portable tanks; and for the prevention of pollution by sewage and garbage from ships. An increase in shore facilities would occur with increased hydrocarbons discharged into the atmosphere, and pollutants in solid, liquid or temperature gradient forms into estuarine water systems. An increased need of power generators will result (89 pages). (ELR Order No. 31391.) (NTIS Order No. EIS 73 1391–D.)

Protocol . . . Marine Pollution, August 20. Proposed is the negotiation of a Protocol relating to Intervention on the High Seas in cases of Marine Pollution by Substance other than Oil. The draft Protocol authorizes contracting parties to take such measures on the high seas as may be necessary to prevent, mitigate, or eliminate grave and imminent dangers to their coastline or related interest from pollution by substances other than oil following a maritime casualty which may reasonably be expected to result in major harmful consequences. Adverse effects may be produced by measures to control or counteract discharge of substances other than oil (18 pages). (ELR Order No. 31392.) (NTIS Order No. EIS 73 1392–D.)

TIMOTHY ATKESON,
General Counsel.

[FR Doc.73–18647 Filed 8–31–73;8:45 am]

COUNCIL OF ECONOMIC ADVISERS

ADVISORY COMMITTEE ON THE ECONOMIC ROLE OF WOMEN

Notice of Meeting

AUGUST 27, 1973.

Pursuant to P.L. 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Advisory Committee on the Economic Role of Women will take place in Washington, D.C. on September 20, 1973. It will be held from 9:30 a.m. to 4:00 p.m. in the West Auditorium of the U.S. Department of State. The meeting will be an open meeting.

The theme of the meeting will be "Advancing Women in Industry."

HERBERT STEIN,
Chairman,
Council of Economic Advisers.

[FR Doc.73–18575 Filed 8–31–73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

Notice of Opportunity for Public Comment on Plans To Achieve Secondary Standards

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR, Part 51, the Administrator granted 18-month extensions for submission of plans to achieve secondary standards for sulfur oxides and particulate matter in the New York portion of the New Jersey-New York-Connecticut Interstate Region and the Niagara Frontier Intrastate Region, and for particulate matter in the Central New York Intrastate Region. These plans were due to be submitted to the Administrator by July 31, 1973.

On July 27, 1973, the Commissioner of the New York State Department of Environmental Conservation, acting on behalf of the Governor, submitted plans to achieve secondary standards for particulate matter in the New York portion of the New Jersey-New York-Connecticut Interstate Region and the Central New York and Niagara Frontier Intrastate Regions.

This notice is issued to advise the public that comments may be submitted on whether the control strategies should be approved or disapproved as required by section 110 of the Clean Air Act. Only comments received on or before October 4, 1973, will be considered. The Administrator's decision to approve or disapprove the plans is based on whether they meet the requirements of section 110(a)(2)(A)–(H) and EPA regulations in 40 CFR Part 51. In the New Jersey-New York-Connecticut Region, the plan proposes to reduce particulate emissions through application of the following additional measures in the Metropolitan New York City area: lower emission limitations for new and modified nonutility combustion; reduction of gasoline-powered motor vehicle travel by 40 percent, as proposed in the New York Transportation Control Plan; elimination of onsite incineration; and widespread energy conservation measures. No new control measures are proposed for Central New York and Niagara Frontier (except Niagara County) Regions; instead, the control strategy is based on revised emissions data and more recent air quality data. In Niagara County, the plan proposes reduction of particulate emissions from sources in Canada, prohibition of construction of new sources and reduction of emissions from graphitizing operations when appropriate control technology becomes available. The attainment date for the secondary particulate matter standards for all three Regions is 1995.

Copies of the plans are available for public inspection during normal business hours at the Office of Public Affairs, EPA, Region II, 26 Federal Plaza, New York, N.Y. 10007, and at the New York State Department of Environmental Conservation, Air Pollution Control Program, 50 Wolf Road, Albany, N.Y. 12201. Additional copies are available at the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C. 20460. All comments should be addressed to the Regional Administrator, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, N.Y. 10007.

ROBERT SANSOM,
Assistant Administrator
for Air and Water Programs.

AUGUST 28, 1973.

[FR Doc.73–18630 Filed 8–31–73;8:45 am]

[I.F. & R. Docket No. 233]

MIREX

Notice of Public Hearing

Please Take Notice that the public hearing pursuant to Notice of Intent to Hold Hearing, heretofore appearing in 38 FR 8616 (April 4, 1973), to determine whether or not the registrations of Mirex, numbers 218–495, 218–516, 218–548, 218–564, 218–565, 218–585, 218–586, 218–590, 218–628 and 218–638, should be canceled or amended, will convene at 10:00 o'clock in the forenoon on Monday, September 17, 1973 in Tax Court Room No. 2, 1111 Constitution Avenue, Washington, D.C.

DAVID H. HARRIS,
Administrative Law Judge.

[FR Doc.73–16783 Filed 8–17–73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 633]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

AUGUST 27, 1973.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Acting Secretary.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20180–C2–TC–(7)–74—Tel-Illinoise, Inc. Consent to transfer of control from David A. Bayer, et al., transferor, to Tel-Delaware, Inc., transferee. Stations: KTS245, Alton, Illinois KUO565, Alton, Illinois KTS202, Belleville, Illinois KUO564, Belleville, Illinois KSJ811, Champaign, Illinois KSJ627, Champaign, Illinois and KUO556, Galesburg, Illinois.

20181–C2–TC–(3)–74 — Tel-Missouri, Inc. Consent to transfer of control from David A. Bayer, et.al., transferor, to Tel-Delaware, Inc., transferee. Stations: KND396, St. Louis, Missouri KRS636, St. Louis, Missouri and KAA888, St. Louis, Missouri.

20182–C2 AL–74—J. B. Wathen III. Consent to assignment of license from J. B. Wathen III, assignor, to Radio Paging and Radiotelephone, Inc., assignee. Station: KSC870, New Albany, Indiana.

20183–C2–P–74—Central Telephone Company of Illinois (New), C. P. for a new 2-way station to operate on 152.810 MHz to be located at Keller and Walnut Streets, Savanna, Illinois.

20184–C2–P–74—CTI Security Police and Alarm Company, Inc. (New), C. P. for a new 2-way station to operate on 454.225 MHz to be located at 915 West Wisconsin Avenue, Milwaukee, Wisconsin.

20185–C2–P–74—Mobaphone Dispatch Service Co. (New), C. P. for a new 1-way signaling station to operate on 158.70 MHz to be located at 3422 Olton Road, Plainview, Texas.

20186–C2–P–74—Carlton L. Holland d/b as Mabaphone of New Mexico (New), C. P. for a new 1-way signaling station to operate on 152.24 MHz to be located at 600 East Curry Avenue, Clovis, New Mexico.

20187–C2–P–(4)–74—O. L. Hale d/b as Mobilfone Communications (KLB500), C. P. for additional facilities to operate on 454.025, 454.125, 454.200, and 454.300 MHz at Loc. No. 4: Worthen Building, 200 W. Capitol, Little Rock, Arkansas.

20188–C2–P–74—Southern Bell Telephone and Telegraph Company (KIY392), C. P. to change antenna location to operate on 152.69 MHz at 111 East 5th Street, Panama City, Florida.

20189–C2–P–74—Raiopaging, Inc. (KIE367), C. P. for additional facilities to operate on 43.58 MHz at 9200 South Dadeland Boulevard, South Miami, Florida.

20190–C2–P–74—Southern Radio-Phone, Inc. (KLF537), C. P. to change antenna system and location to operate on 152.21 MHz at Loc. No. 1: 455 North Flagler Avenue, Homestead, Florida.

20191–C2–MP–(2)–74—General Communications Service, Inc. (KSW213), (Air-Ground), C. P. to change antenna system to operate on 454.675 and 454.725 MHz located at 1018 West Peachtree Street, N.W., Atlanta, Georgia.

20192–C2–P–74—Aircall Inc. (KIY779), C. P. for additional facilities to operate on 454.100 MHz at Loc. No. 2: 216 Haywood Street, Asheville, North Carolina.

20193–C2–MP–74—Southern Radio-Phone, Inc. (KSV941), C. P. to change antenna system and location to operate on 75.98 MHz located at 455 North Flagler Avenue, Homestead, Florida.

20194–C2–P–74—Nashville Mobilphone, Inc. (New), C. P. for a new 2-way station to operate on 454.350 MHz to be located at 4.6 Miles S. of Lebanon U.S. Hwy. 231, Lebanon, Tennessee.

20195–C2–P–74—Wisconsin Telephone Company (KSC647), C. P. to change antenna system and location, change transmitter location, and replace transmitter to operate on 152.63 MHz located at 1221 North 26th Street, Sheboygan, Wisconsin.

20196–C2–P–74—South Central Bell Telephone Company (KIY454), C. P. to change antenna location and relocate transmitter to operate on 152.72 MHz located at 417 Madison Street, Clarksville, Tennessee.

20197–C2–P–74—Mid Texas Telephone Co. (New), C. P. for a new 1-way signaling station to operate on 152.84 MHz to be located at 415 N. 2nd Street, Killeen, Texas.

20198–C2–AL–(3)–74—X. Nady, Jr., consent to assignment of license from X. Nady, Jr., assignor, to Mobile Telecommunications Corporation, assignee. Stations: KUC883, Amarillo, Texas; KKV668, Amarillo, Texas and KLB563, Amarillo, Texas.

20199–C2–P–74—Arvig Telephone Company (New), C. P. for a new 2-way station to operate on 152.51 MHz to be located at 1.8 Miles North of Ash River Falls, Minn.

21202–C2–P–74—The Mountain States Telephone and Telegraph Company (KKH476), C. P. to replace test transmitter operating on 157.77, 157.83, 158.01 MHz located at 21 miles SSE. of Bloomfield, New Mexico.

21203–C2–P–(4)–74—General Telephone Company of Florida (KIY397), C. P. to change the antenna system and for additional facilities to operate on 454.575, 454.600, 454.625, 454.650 MHz at two new sites described as Loc. No. 2: 1.8 miles 11° NE. from Laurel, Nokomis, Florida and Loc. No. 3: 716 49th Street East, Palmetto, Florida and replace and add test facilities.

21204–C2–MP–(4)–74—General Telephone Company of Florida (KRS647), C. P. to change the antenna system and for additional facilities to operate on 454.575, 454.600, 454,625, 454.650 MHz at two new sites described as Loc. No. 2: 3240 54th Avenue South, St. Petersburg, Florida and Loc. No. 3: 2 Blocks West of intersection of Gunn Highway and Florida Highway 54, Odessa, Florida.

Informative

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding ex parte presentations, by reasons of potential electrical interference.

Pennsylvania

Contact (KGC596), 821–C2–P–(5)–73.
Radio Broadcasting Co. (KGB874), 8737–C2–P–(2)–72.

New Jersey

Radiofone Corporation of New Jersey (New), 579–C2–P–(2)–73.

RURAL RADIO SERVICE

60044–C6–P–74—New England Telephone and Telegraph Company (WHB49), C. P. to change antenna system to operate on 157.83 MHz located at Island, 2.8 miles ENE. of Cuttyhunk, Massachusetts, Nashawena Island, Massachusetts.

60045–C6–P–74—Arvig Telephone Company (New), C. P. for a new rural subscriber station to operate on 157.77 MHz fixed at temporary locations within reliable communications range of applicant's base station.

POINT TO POINT MICROWAVE RADIO SERVICE

420–C1–P–74—American Telephone and Telegraph Company. (KSA81), 2.8 miles ESE. of Norway, Illinois. Lat. 41°27'21" N., Long. 88°37'15" W., C.P. to add frequency: 4198V toward Odell, Illinois on azimuth 163°07'.

421–C1–P–74—Same. (KSB73), 5.4 miles NW. of Mulberry Grove, Illinois. Lat. 38°59'38" N., Long. 89°19'26" W., C.P. to add frequency: 4198H toward Highland, Illinois on azimuth 231°17'.

422–C1–P–74—Same. (KSB74). 2.0 miles NNW. of Highland, Illinois. Lat. 38°45'45" N., Long. 89°41'30" W., C.P. to add frequencies: 4190V toward Hookdale, Illinois on azimuth 78°04'; 4190V toward Gillespie, Illinois on azimuth 343°27'; 4190H toward Van Burensburg, Illinois on azimuth 51°03'.

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[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

423–C1–P–74—Same. (KSE25), 0.9 mile NE. of Newbern, Illinois. Lat. 39°45'45" N., Long. 90°19'41" W., C.P. to add frequency: 4190H toward Gillespie, Illinois on azimuth 73°12'.

424–C1–P–74—Same. (KSE27), 1.8 miles SE. of Palmyra, Wisconsin. Lat. 42°51'25" N., Long. 88°33'57" W., C.P. to add frequency: 4190H toward Watertown Jct., Wisconsin on azimuth 349°26'.

425–C1–P–74—Same. (KSI29), 1 mile W. of Gillespie, Illinois. Lat. 39°07'48" N., Long. 89°49'55' W., C.P. to add frequencies: 4198V toward Highland, Illinois on azimuth 163°21'; 4198H toward Newbern, Illinois on azimuth 253°31'.

426–C1–P–74—Same. (KSH90), 4 miles NE. of Watertown, Wisconsin. Lat. 43°14'25" N., Long. 88°39'49" W., C.P. to add frequency: 4198H toward Palmyra, Wisconsin on azimuth 169°22'.

427–C1–P–74—Same. (KSN65), 4.6 miles E. of Odell, Illinois. Lat. 40°59'40" N., Long. 88°26'10" W., C.P. to add frequencies: 4190V toward Norway, Illinois on azimuth 343°14'; 4190V toward Saybrook, Illinois on azimuth 189°52'.

428–C1–P–74—Same. (KSN66), 3.7 miles NNW. of Saybrook, Illinois. Lat. 40°28'38" N., Long. 88°33'14" W., C.P. to change antenna system and add frequencies: 4198V toward Cisco, Illinois on azimuth 198°01'; 4198V toward Odell, Illinois on azimuth 09°47'.

429–C1–P–74—Same. (KSN67), 1.4 miles NW. of Cisco, Illinois. Lat. 40°01'36" N., Long. 88°44'40" W., C.P. to add frequencies: 4190V toward Saybrook, Illinois on azimuth 17°54'; 4190V toward Macon, Illinois on azimuth 208°24'.

430–C1–P–74—Same. (KSN68), 1.5 miles ESE. of Macon, Illinois. Lat. 39°41'54" N., Long. 88°58'27" W., C.P. to add frequencies: 4198H toward Cisco, Illinois on azimuth 28°16'; 4198H toward Nokomis, Illinois on azimuth 208°03'.

431–C1–P–74—Same. (KSN69), 2.5 miles SSE. of Nokomis, Illinois. Lat. 39°16'06" N., Long. 89°16'07" W. C.P. to add frequencies: 4190H toward Macon, Illinois on azimuth 27°52'; 4190V toward Hookdale, Illinois on azimuth 172°45'.

432–C1–P–74—American Telephone and Telegraph Company. (KSN70), 6 miles ENE. of Hookdale, Illinois. Lat. 38°50'34" N., Long. 89°11'58" W., C.P. to add frequencies: 4198V toward Nokomis, Illinois on azimuth 352°48'; 4198V toward Highland, Illinois on azimuth 258°23'.

433–C1–P–74—The Ohio Bell Telephone Company. (KQH37), Morgantown Avenue, Barnesville, Ohio. Lat. 39°59'12" N., Long. 81°09'39" W., C.P. to change antenna system and to add frequency 6397.4H toward Bloomfield, Ohio on azimuth 278°13'.

434–C1–P–74—Same. (KQN73), 7.4 miles ENE. of Dresden, Ohio. Lat. 40°08'35" N., Long. 81°52'25"W., C.P. to add frequency. 10915H toward Bloomfield, Ohio on azimuth 131°-10'; increase output power on frequencies: 10975V and 6056.4V on azimuth 243°24'.

435–C1–P–74—Same. (KQN74), NNW. of Brownsville, Ohio. Lat. 39°59'10" N., Long. 82°16'45" W., C.P. to increase output power on frequencies: 6308.4V and 11385V toward Dresden, Ohio on azimuth 63°08'.

436–C1–P–74—Same. (New), 0.5 mile E. of Bloomfield, Ohio. Lat. 40°02'56" N., Long. 81°44'01" W., C.P. for a new station on frequencies: 11685H toward Dresden, Ohio on azimuth 311°15'; 11645V toward Cambridge, Ohio on azimuth 101°42'; 6145.3H toward Barnesville, Ohio on azimuth 97°51'.

437–C1–P–74—American Telephone and Telegraph Company. (KIT97), 1.0 miles S. of Williamstown, Kentucky. Lat. 38°37'55" N. Long. 84°33'13" W., C.P. to add frequency: 3910H toward Claysville, Ky. on azimuth 118°16'.

438–C1–P–74—Wisconsin Telephone Company. (KSO97), 304 South Dewey Street, Eau Claire, Wisconsin. Lat. 44°48'41" N., Long. 91°29'49" W., C.P. to change antenna system and add frequency: 6123.1V toward V/O Eagleton, Wisconsin on azimuth 23°54'.

439–C1–P–74—Same. (New), 1.7 miles SE. of Eagleton, Wisconsin. Lat. 45°02'21" N,, Long. 91°21'16" W., C.P. for a new station on frequencies: 6375.2V toward Eau Claire, Wisconsin on azimuth 204°00'; 6375.2H toward V/O Cameron, Wisconsin on azimuth 325°44'.

440–C1–P–74—Same. (New), 1.2 miles S. of Cameron, Wisconsin. Lat. 45°22'36" N., Long. 91°40'52" W., C.P. for a new station on frequencies: 6123.1H toward V/O Eagleton, Wisconsin on azimuth 145°30'; 10915V 11155.0V toward Rice Lake, Wisconsin on azimuth 342°39'.

363–C1–ML–74—American Telephone and Telegraph Company. (KIL84), mod. of C.P. to change polarization from horizontal to vertical on frequencis: 3710V, 3790V, 3870V and 3950V toward Newington, Georgia.

458–C1–ML–74—American Telephone and Telegraph Company. (KEE58), mod. of C.P. to change from vertical to horizontal polarization on frequencies: 3710H, 3790H, 3870H, 3950H, 4030H, 4110H toward Surprise, New York on azimuth 05°32'; frequencies: 3750H, 3850H, 3910H, 3990H, 4070H, 4150H toward Halihan Hill, New York on azimuth 185°35'; change from horizontal to vertical polarization on frequencies: 3730V, 3810V, 3890V, 3970V, 4050V, 4130V toward Surprise, New York on azimuth 05°32'; frequencies: 3770V, 3850V, 3930V, 4010V, 4090V, 4170V toward Halihan Hill, New York on azimuth 185°35'.

459–C1–ML–74—Same. (KEE61), mod. of C.P. to change from vertical to horizontal polarization on frequencies: 3710H, 3790H, 3870H, 3950H, 4030H, 4110H toward Surprise, New York on azimuth 05°32'; frequencies: 3750H, 3830H, 3910H, 3990H, 4070H, 4150H, toward Halihan Hill, New York, on azimuth 185°35'; change from horizontal to vertical polarization on frequencies: 3730V, 3810V, 3890V, 3970V, 4050V, 4130V toward Surprise, New York on azimuth 05°32'; frequencies: 3770V, 3850V, 3930V, 4010V, 4090V, 4170V toward Halihan Hill, New York on azimuth 185°35'.

460–C1–P–74—United Telephone Company of Florida. (KYO84), U.S. Hwy. 41, 0.8 miles W. of Monroe Station, Florida. Lat. 25°51'-57" N., Long. 81°06'57" W., C.P. to add frequencies: 6123.1V toward Pinecrest, Fla. on azimuth 122°33'; 3810H toward Jerome, Fla. on azimuth 302°09'.

461–C1–P–74—Same. (KYO83), State Road 29, Jerome, Florida. Lat. 25°59'45" N., Long. 81°20'42" W., C.P. to add frequencies: 3850V toward Royal Palm Hammock, Fla. on azimuth 27°349'; 3850H toward Monroe, Fla. on azimuth 122°03'.

462–C1–P–74—Same. (KYO82), U.S. Hwy. 41, 2.1 miles NW. of Royal Palm Hammock, Fla. Lat. 26°00'46" N., Long. 81°37'51" W., C.P. to add frequencies: 3810V toward Jermoe, Fla. on azimuth 93°41'; 3810V toward Naples, Fla. on azimuth 310°47'.

463–C1–P–74—Same. (KIQ74), 823 5th Avenue South, Naples, Florida. Lat. 26°03'29" N., Long. 81°47'46" W., C.P. to add frequency: 3850V toward Royal Palm Hammock, Fla. on azimuth 130°43'.

464–C1–P–74—Same. (KSV81), 11.8 miles SE. of Monroe Station, Pinecrest, Fla. Lat. 25°45'50" N., Long. 80°56'23" W., C.P. to add frequencies: 6226.9V toward Seminole, Fla. on azimuth 90°59'; 6375.2V toward Monroe Station, Fla. on azimuth 302°38'.

465–C1–P–74—CML Satellite Corporation. (New), 1.5 miles SE. of Franklin Lakes, New Jersey. Lat. 40°59'04" N., Long. 74° 12'18" W., C.P. for a new station on freqs: 10755.0V and 11155.0V toward New York, New York on azimuth 142°29'.

466–C1–P/ML–74—American Telephone and Telegraph Company. (KEF72), C.P. and mod. of developmental license to add frequency bands: 3700–4200 and to add 10 additional units to operate in any temporary fixed location in the continental United States.

473–C1–P–74—Video Microwave, Inc. (WLJ89), 3 miles N. of Blandford, Massachusetts. Lat. 42°13'10" N., Long. 72°56'47" W., C.P. to add frequency 5945.2H MHz toward Berlin Mountain, New York (WOE21), on azimuth 332°5'.

474–C1–P–74—Same. (WOE21), Berlin Mountain, 4.48 miles E. of Berlin, New York. Lat. 42°41'33" N., Long. 73°17'11" W., C.P. to add frequency 6404.8H MHz toward Bald Mountain, New York, on azimuth 290°24'.

475–C1–P–74—Same. (New), Bald Mountain, 1.5 miles E. of Troy, New York. Lat. 42°47'07" N., Long. 73°37'46" W., C.P. for a new station at foregoing coordinates on frequency 10315.0V MHz toward Albany (WAST–TV Studio), New York on azimuth 216°30'.

(*Informative.*—Applicant is proposing to provide a television network signal to station WAST–TV, Albany, New York.)

477–C1–ML–74—Nebraska Consolidated Communications Corporation (WHO27). Mod. of C.P. to correct station location to read 0.2 mile W. of Winnebago, Minnesota, Lat. 43°45'54" N., Long. 94°10'45" W.

480–C1–ML–74—Same. (WOI21), mod. of C.P. to change station location to 532 Debalviere Blvd., St. Louis, Missouri, Lat. 38°39'03" N., Long. 90°17'03" W.

481–C1–ML–74—Same. (WOH25), 3 miles ENE. of LeSueur, Minnesota, Lat. 44°27'22" N., Long. 93°50'16" W., mod. of C.P. to change point of communication from Shakopee, Minn. to Chaska, Minn. on radio path azimuth 24°3'.

482–C1–ML–74—Same. (WOH24), mod of C.P. to change station location to 4.2 miles N. of Chaska, Minnesota, Lat. 44°50'55" N., Long. 93°35'23" W. and to change radio path azimuth toward Minneapolis and LeSueur, Minn. to 60°57' and 204°13' respectively.

483–C1–ML–74—Same. (WOH23), Foshay Tower Building, Minneapolis, Minnesota. Lat. 44°58'28" N., Long. 93°16'16" W., mod of C.P. to change point of communication from Shakopee, Minn. to Chaska, Minn. on radio path azimuth 241°11'.

484–C1–P–74—Southern Bell Telephone and Telegraph Company. (KIV59), 111 East 5th St., Panama City, Florida. Lat. 30°09'26" N., Long. 85°39'34" W., C.P. to change antenna system and location, change polarization from vertical to horizontal for frequencies: 6219.5H and 6397.4H toward Mitchell, Florida on azimuth 103°31'.

485–C1–P–74—The Norfolk and Carolina Telephone & Telegraph Company.(KJH20), 105 Uppowac Avenue, Manteo, North Carolina. Lat. 35°54'23" N., Long. 75°40'26" W., C.P. to change antenna system, power and replace transmitters, change azimuth on frequencies 5967.4H 6036.0H to 04°02' toward Kill Devil Hills, North Carolina.

486–C1–P–74—Same. (KJG96), 103 South Road Street, Elizabeth City, North Carolina. Lat. 38°18'09" N., Long. 76°13'27" W., C.P. to change antenna system power and replace transmitters, change azimuth to 77°51' on frequencies 5952.6H 6071.2H toward Colnjock, North Carolina.

487–C1–P–74—The Norfolk and Carolina Telephone & Telegraph Company. (KJG97), north edge of Colnjock, 400 yards W. of Hwy. 158, Colnjock, North Carolina. Lat. 36°20'48" N., Long. 75°57'16" W., C.P. to change antenna system, power, replace transmitters, change azimuth to 258° 01' on frequencies 6204.7H and 6323.3H toward Elizabeth City, N.C.; change azimuth to 156°54' on frequencies 6234.3H and 6352.9H toward Mamie, N.C.

488–C1–P–74—Same. (KJG98), south edge of Mamie, 150 yards W. of Hwy. 158, North Carolina. Lat. 36°07'02" N., long. 75°50'20" W. C.P. to change antenna system, power, replace transmitters, change azimuth to 336°59' on frequencies 5982.3H and 6100.9H toward Colnjock, N.C.; change azimuth to 124°15' on frequencies 5937.8H and 6056.4H toward Kill Devil Hills, N.C.

489–C1–P–74—Same. (KJG99), Asheville Drive, 240 feet West of intersection with U.S. Hwy. 158 Business, Kill Devil Hills, North Carolina. Lat. 36°01'23" N., Long. 75°39'50" W. C.P. to change antenna system, power, replace transmitters, change azimuth to 304°21' on frequencies 6198.8H and 6308.4H toward Mamie, N.C.; change azimuth to 184°02' on frequencies 6219.5H and 6338.1H toward Manteo, N.C.

490–C1–P–74—TelePrompTer Transmission of New Mexico, Inc. (KKY43), El Huerfano Mesa, New Mexico. Lat. 36°24'54" N., Long. 107°50'41" W., C.P. to add frequencies 6162.5H, 6262.5H, and 6362.5H toward Durango, Colorado, on azimuth 357°20' (via power split); make changes in antenna system; relocate receiver site. (NOTE: A waiver of Section 21.701(l) is requested by TelePrompTer).

491–C1–P–74—Microwave Service Company of Florida, Inc. (KUV91), 0.5 mile NW. of West Point, Mississippi. Lat. 33°36'44.5" N., Long. 88°39'42.6" W., C.P. to add frequencies 6271.4V MHz and 6409.0V MHz via power split toward Woodland, Miss. (New) on azimuth 296°40'.

492–C1–P–74—Same. (New), 2.1 miles NW. of Woodland, Mississippi. Lat. 33°47'40" N., Long. 89°05'16" W., C.P. for a new station on frequencies: 10,755V MHz and 10,995V MHz toward Calhoun City, Mississippi on azimuth 291°54'.

MAJOR AMENDMENTS

5455–C1–P–71—CML Satellite Corporation. (New). Change station location, frequencies, and points of communication to: Lat. 40°45'42" N., Long. 73°58'49" W., frequencies 11285H and 11685H MHz on azimuth 322°38' toward Franklin Lakes, New Jersey. (All other particulars the same as reported in Public Notices, Report No. 539, dated April 12, 1971 and No. 643, dated April 9, 1973.

3364–C1–P–73—United Video, Inc. (New). Change station location to Newton Road, 5 miles SW. of Jacksonville, Florida. Lat. 30°16'29" N., Long. 81°34'26" W. Frequency 6034.2H MHz on azimuth 174°39' toward Mill Creek, Florida.

3365–C1–P–73—Same. (New). Change station location to Mill Creek, 5 miles N. of Picolate, Florida. Lat. 29°58'18" N., Long. 81°32'28" W. Frequencies 6375.2H MHz on azimuth 354°40' toward Jacksonville, Florida and 6286.2H on azimuth 173°33' toward Hastings, Florida.

3366–C1–P–73—Same. (New). Station located at Hastings, Florida. Lat. 29°41'31" N., Long. 81°30'17" W. Change frequencies toward Bunnell, Florida to 6034.2H MHz on azimuth 150°03' and toward Mill Creek, Florida to 6063.8H MHz on azimuth 353°-34'.

3367–C1–P–74—Same. (New). Change station location to 5 miles SW. of Bunnell, Florida. Lat. 29°26'21" N., Long. 81°20'15" W. Frequencies 3870V MHz on azimuth 205°56' toward Barberville, Florida and 6286.2V MHz on azimuth 330°08' toward Hastings, Florida.

3368–C1–P–73—Same. (New). Change station location to 3 miles E. of Barberville, Florida. Lat. 29°10'51" N., Long. 81°28'53" W. and change azimuth to 176°10' toward Cassia, Florida and 25°52' toward Bunnell, Florida.

3369–C1–P–73—Same. (New). Change station location to 1.0 mile S. of Cassia, Florida. Lat. 28°52'33" No., Long. 81°27'35" W. and change azimuths to 189°09' toward Ocoee, Florida and 356°27' toward Barberville, Florida.

3370–C1–P–73—Same. (New). Change station location to 1.5 miles E. of Ocoee, Florida. Lat. 28°33'50" N., Long. 81°31'01" W. Frequencies 3910V MHz on azimuth 209°41' toward Davenport Lake, Florida and 11015V MHz on azimuth 100°48' toward Orlando, Florida and change azimuth to 09°08' toward Cassia, Florida.

3371–C1–P–73—Same. (New). Station location 100 South Orange Avenue, Orlando, Florida. Lat. 28°32'27" N., Long. 81°22' 47" W. Frequency 11265V MHz on azimuth 280°52' toward Ocoee, Florida.

3372–C1–P–73—Same. (New). Change station location to 0.5 mile W. of U.S. Hwy. 27, 12 miles North of Davenport Lake, Florida. Lat. 28°18'37" N., Long. 81°40'52" W. and change azimuth to 203°50' toward Auburndale, Florida and to 29°37' toward Ocoee, Florida.

3373–C1–P–73—United Video, Inc. (New). Change station location to 1.5 miles SW. of Auburndale, Florida. Lat. 28°02'58" N., Long. 81°48'42" W. and change polarizations and azimuths to 3910H MHz on azimuth 230°52' toward Keysville, Florida and 4090V MHz on azimuth 23°47' toward Davenport Lake, Florida.

3374–C1–P–73—Same. (New). Change station location to 5 miles SE. of Tampa, Florida. Lat. 27°54'36" N., Long. 82°23'23" W. Frequency 4170V MHz on azimuth 102°20' toward Keysville, Florida.

3375–C1–P–73—Same. (New). Station location Keysville, Florida. Lat. 27°51'09" N., Long. 82°05'13" W. Change frequencies and azimuths to 3810V on azimuth 282°29' toward Tampa, Florida and 4050V MHz on azimuth 50°44' toward Auburndale, Florida.

3377–C1–P–73—Same. (New). Station location Buchanan, Florida. Lat. 27°25'02" N., Long. 81°45'18" W. Change polarization of frequency 3890 MHz from vertical to horizontal.

3378–C1–P–73—Same. (New). Station location Arcadia, Florida. Lat. 27°09'27" N., Long. 81°50'22" W. Change frequency to 4170H MHz on azimuth 16°06' toward Buchanan, Florida and change polarization from vertical to horizontal for frequency 3910 MHz toward Bermont, Florida.

3379–C1–P–73—Same. (New). Station location Bermont, Florida. Lat. 26°56'40" N., Long. 81°40'45" W. Change polarization of frequency 4050 MHz from horizontal to vertical toward Arcadia, Florida and change azimuth toward Ft. Denaud, Florida to 113°54'.

3380–C1–P–73—Same. (New). Change station location to 1.0 mile NW. of Ft. Denaud, Florida. Lat. 26°44'47" N., Long. 81°31'03" W. Frequencies 3930H MHz on azimuth 121°25' toward Keri Station, Florida and 4090H MHz on azimuth 323°58' toward Bermont, Florida.

3382–C1–P–73—Same. (New). Station location Seminole, Florida. Lat. 26°27'45" N., Long. 81°01'55" W. Change frequency toward Lake Harbor, Florida to 3770H MHz.

3383–C1–73–Same. (New). Station location Lake Harbor, Florida. Lat. 26°41'25" N., Long. 80°48'30" W. Change frequency toward Belle Glade, Florida to 3970V MHz.

3384–C1–P–73—Same. (New). Station location Belle Glade, Florida. Lat. 26°40'47" N., Long. 80°30'04" W. Change frequency toward West Palm Beach, Florida to 4010V MHz.

3385–C1–P–73—Same. (New). Change station location to 1515 South Flaglet Drive, West Palm Beach, Florida. Lat. 26°41'54" N., Long. 80°03'05" W. and change polarization of frequency 3730 from horizontal to vertical toward Belle Glade, Fla.

3387–C1–P–73—Same. (New). Change station location to 7 miles SE. of Indian Reservation, Big Cypress, Florida, Lat. 26°13'55" N., Long. 80°55'10" W. and change azimuths to 107°43' toward Alligator Alley, Florida and 336°24' toward Seminole, Florida.

3388–C1–P–73—United Video, Inc. (New). Change station location to 10.5 miles W. of Andytown, Alligator Alley, Florida. Lat. 26°08'50" N., Long. 80°37'30" W., and change azimuths to 126°20' toward Hollywood, Florida and 287°51' toward Big Cypress, Florida.

3389–C1–P–73—Same. (New). Change station location to 9 miles W. of Hollywood, Florida. Lat. 25°58'18" N., Long. 80°21'39" W. frequencies 4050V MHz on azimuth 306°33' toward Alligator Alley, Florida, and 6360.3V MHz on azimuth 141°14' toward Miami, Florida.

3390–C1–P–73—Same. (New). Station location Miami, Florida. Lat. 25°46'46" N., Long. 80°11'22" W., change frequency to 6108.3V MHz on azimuth 321°18' toward Hollywood, Florida.

(All other particulars remain same as reported on Public Notice Report No. 623 Dated November 20, 1973).

Corrections

252–C1–P–74—General Telephone Company of the Northwest, Inc., Correct to read C.P. for a new station on frequencies: 6034.2V toward Wymer, Washington on azimuth 193°28'; 11445.0H, 11665.0H toward Wenatchee, Washington on azimuth 28°01'; 6078.6H toward Chelan Butte, Washington on azimuth 26°21'.

253–C1–P–74—Same. (New). Correct to read C.P. for a new station on frequencies: 10915.0H, 11135.0H toward Mission Peak, Washington on azimuth 208°7'.

254–C1–P–74—Same. (KTF80). Correct to read C.P. for additional facilities on frequencies: 6330.7H toward Mission Peak, Washington on azimuth 206°39'; 2110.8H toward Mansfield, Washington on azimuth 89°23'; and 2126.8H toward Harmony Heights, Washington, on azimuth 24°38'.

255–C1–P–74—Same. (New). Correct to read C.P. for a new station on frequency: 2160.8H toward Chelan Butte, Washington on azimuth 269°40'.

256–C1–P–74—Same. (New). Correct to read C.P. for a new station on frequency: 2176.8H toward Harmony Heights Passive, Washington on azimuth 291°09'.

(All other particulars remain same as reported on Public Notice Report #659, dated July 30, 1973.)

[FR Doc.73-18557 Filed 8-31-73;8:45 am]

FEDERAL MARITIME COMMISSION

MOORE-McCORMACK LINES, INC.

Order of Revocation

Certificate of financial responsibility for indemnification of Passengers for Nonperformance of Transportation No. P-35 and Certificate of Financial Responsibility to meet liability incurred for

death or injury to passengers or other persons on voyages No. C–1,043.

Whereas, Moore-McCormack, Lines, Incorporated, 2 Broadway, New York, N.Y. 10004, has ceased to operate the passenger vessels S.S. ARGENTINA and S.S. BRASIL.

It is ordered, That Certificate (Performance) No. P–35 and Certificate (Casualty) No. C–1,043 covering the S.S. ARGENTINA and S.S. BRASIL be and are hereby revoked effective August 27, 1973.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served on certificant.

By the Commission.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.73–18672 Filed 8–31–73;8:45 am]

BI-STATE DEVELOPMENT AGENCY AND ST. LOUIS TERMINALS CORP.

Notice of Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 24, 1973. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed by:

E. J. Sheppard IV, Esq., Attorney for St. Louis Terminals Corp., Morgan, Lewis & Bockius, 1140 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No. T–2840, between Bi-State Development Agency (Bi-State) and St. Louis Terminals Corporation (Terminals), provides for the 15-year lease to Terminals of 5.95 acres of land, located on a portion of the facilities built by Bi-State at Granite City Harbor in the Missouri-Illinois Metropolitan District. The facility is to be used as a public river-rail-truck terminal for the handling of waterborne cargo and uses incidental thereto. As compensation, Bi-State will receive a certain percentage of the operation's gross revenue subject to an annual minimum as outlined in detail in the lease. Terminals will have joint occupancy of the terminal facility with the Granite City Steel Co. as is permitted under the terms of the lease agreement between Bi-State and Granite City Steel Co. In addition, Terminals will conform to Bi-State's rules, regulations, conditions and public tariffs and will assess all applicable terminal tariff charges on all vessels and cargo using the facility.

Agreement No. T–2840–1 modifies the basic agreement which provides for the operation of a public river-rail-truck terminal at Granite City Harbor in the Missouri-Illinois Metropolitan District. The purpose of the modification is to: (1) Increase the lease term from 15 to 25 years (with renewal options); (2) increase the warehouse space by 16,800 square feet; (3) cancel certain improvement obligations; and (4) increase Bi-State's guaranteed annual minimum compensation as outlined in the agreement.

Agreement No. T–2840–2 modifies the basic agreement which provides for the operation of a public river-rail-truck terminal at Granite City Harbor in the Missouri-Illinois Metropolitan District. The purpose of the modification is to provide for Bi-State's purchase of a loading crane to be leased to Terminals over a period of 15-years at an annual rental of $5,000.

Dated August 29, 1973.

By Order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.73–18673 Filed 8–31–73;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RI74–25, etc.]

RATE CHANGES

Order Providing for Hearing and Suspension, and Allowing Rate Changes To Become Effective Subject to Refund [1]

AUGUST 23, 1973.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds. It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders.

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in docket No.
									Rate in effect	Proposed increased rate	
RI74-25	Signal Oil and Gas Co.	19	4	Transwestern Pipeline Co. (Bell Lake Field, Lea County, N. Mex., Permian Basin).	$3,600	7-23-73	9- 1-73	[3] Accepted [3] 2-1-74	21.0	23.5	
RI74-26	Cabot Corp. (SW)	107	1	El Paso Natural Gas Co. (Walton Gasoline Plant, Winkler County, Tex., Permian Basin).	1,664	7-23-73		8-23-73	20.8630	21.3623	
RI74-27	Exxon Corp.	523	1	El Paso Natural Gas Co. (Fort Chadbourne and West Fort Chadbourne Fields, Coke and Runnels Counties, Tex., Permian Basin).	42,120	7-23-73	8-23-73	[3] Accepted [3] 1-23-74	27.0	30.0	
RI74-28	The Superior Oil Co.	135	3	Natural Gas Pipeline Co. of America (Crittendon Field, Winkler County, Tex., Permian Basin).	33,791	7-26-73		8-26-73	18.9533	20.0364	

*Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[1] Includes quality adjustment.
[2] Accepted as of the date set forth in the "Effective Date Unless Suspended" column insofar as proposed rate does not exceed the ceiling prescribed in Opinion No. 662.
[3] Proposed rate is suspended until date shown insofar as it exceeds ceiling in Opinion No. 662.

The proposed increases of Signal Oil and Gas Company and Exxon Corporation are accepted in part for that portion of the proposed rate that does not exceed the applicable area rate as adjusted for quality pursuant to Opinion No. 662, and are suspended for five months in part for that portion of the proposed rate that exceeds the applicable area rate as adjusted for quality pursuant to Opinion No. 662.

The remaining proposed rate increases do not exceed the rate limit for one day and are accepted for filing as of the dates shown in the "Date Suspended Until" column.

Good cause has not been shown for granting Exxon's request for waiver of the statutory notice period.

Nothing contained in this order shall relieve the respondents of any responsibility imposed by the Economic Stabilization Act of 1970, (Pub. L. 91-379, 84 Stat. 799, as amended by Pub. L. 92-15, 85 Stat. 38), or by any Executive Order or rules and regulations promulgated pursuant to such Act.

[FR Doc.73-18513 Filed 8-31-73;8:45 am]

[Project No. 1185]

BAHOVEC POWER PROJECT

Notice of Issuance of Annual License

AUGUST 22, 1973.

The Licensee for Project No. 1185, the Bahovec Power Project located on the Baranof River at Warm Springs Bay on Baranof Island, Alaska, is Fred Bahovec.

The license for Project No. 1185 was issued effective August 23, 1962, for a period ending August 22, 1972. The project has been operating under annual license since its expiration. In order to authorize the continued operation of the project pursuant to Section 15 of the Federal Power Act, pending completion of Licensee's application and Commission action thereon, it is appropriate and in the public interest to issue an annual license to Fred Bahovec for the continued operation and maintenance of Project No. 1185.

Take notice that an annual license is issued to Fred Bahovec (Licensee) of Sitka, Alaska, under section 15 of the Federal Power Act for the period August 23, 1973, to August 22, 1974, or until the issuance of a new license for the project, for the continued operation and maintenance of Project No. 1185, subject to the terms and conditions of its license.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-18640 Filed 8-31-73;8:45 am]

[Docket No. CI74-100]

BELCO PETROLEUM CORP.

Notice of Application

AUGUST 22, 1973.

Take notice that on August 10, 1973, Belco Petroleum Corporation as Agent for Belco 1972 Oil and Gas Fund, Ltd. (Applicant), 630 Third Avenue, New York, New York 10017, filed in Docket No. CI74-100 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Northern Natural Gas Company from the Arco Childress No. 1 Well, Crockett County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of gas on July 30, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for two years from the end of the sixty-day emergency period within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell approximately 300 Mcf of gas per day at 42.0 cents per Mcf at 14.65 p.s.i.a. the first year and at 43.0 cents per Mcf at 14.65 p.s.i.a. the second year at 14.65 p.s.i.a., subject to upward and downward Btu adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 6, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-18641 Filed 8-31-73;8:45 am]

[Docket No. RP74-4]

CITIES SERVICE GAS CO.

Order Accepting Portion of Filing and Rejecting Another Portion, Suspending Rates, and Setting Hearing

AUGUST 22, 1973.

On July 23, 1973, Cities Service Gas Company (Cities Service) tendered revisions to its FPC Gas Tariff, Second Revised Volume No. 1 [1] including a gen-

[1] See Appendix.

eral increase in rates, a change in the base cost of purchase gas per Cities Service purchased gas cost adjustment provision (PGA), and tariff provisions for tracking changes in coal gasification and advance payment costs. These proposed changes would result in an increase in revenues of $20,990,103 based on a twelve month test period ending March 31, 1973, as adjusted. An effective date of August 23, 1973, is requested.

Cities Service claims the increased revenues are necessary to offset a deficit in revenue occurring during the test period. To implement this application, the company requests waiver of several of the Commission's rules and regulations. First, waiver is requested of § 154.38(d)(3) of the Commission's Regulations under the Natural Gas Act in order to allow tracking provisions covering coal gasification and advance payments in its tariff; second, waiver is asked of § 154.63(e)(2)(ii) to permit the inclusion of costs related to facilities for which certification is pending in Docket Nos. CP74-6 and CP74-10; third, waiver is requested of Commission Order No. 441 to include advance payments for lease acquisitions in a contract signed after November 10, 1971; finally, a limited waiver of the filing requirements of Commission Order No. 488 issued July, 1973, in Docket No. R-464, is requested to allow Cities Service extra time to bring their filing into compliance with that order.

Notice of the application was issued on July 30, 1973, providing for a closing date of August 14, 1973, for all petitions to intervene, protests, and comments. Timely petitions to intervene were filed by Midwest Industrial and Commercial Gas Users Association (Midwest), and Armco Steel Corporation; Sheffield Division (Armco), and Union Gas System, Inc. Each of the above petitioners claim that the proposed rates may be unreasonable and unjust and request that the Commission suspend them for the full five month period. Also on August 8, 1973, the Public Service Commission of the State of Missouri filed a notice of intervention.

As to the coal gasification and advance payments tracking provisions contained in the filing, Cities Service concedes that § 154.38(d)(3) of the Regulations under the Natural Gas Act specifically prohibits automatic rate adjustments through the use of clauses similar to the ones submitted here. The company asserts, however, that the need is great to augment its gas supplies to maintain the level of service to its customers. Cities Service points out that we approved similar advance payments tracking provisions in a settlement of its filing in Docket No. RP71-106 and that these contentions should serve as good cause to waive the pertinent regulations. Our approval of the advance payment tracking provision in Cities Services prior settlement raised different questions of policy and fact that those present herein where inclusion in Cities Service FPC Gas Tariff of an advance payment tracking provision and a coal gasification tracking provision is requested. Accordingly, we will deny Cities Service's requested waiver, reject the filing under Section 4 insofar as it relates to the advance payment and coal gasification tracking provisions. This is without prejudice to City Service's and any other party's right to file evidence as to these tracking provisions which will be considered on its merits for prospective application.

With regard to the inclusion of the costs of noncertificated facilities, we are going to grant the waiver of § 154.63(e)(2)(ii) and allow such inclusion; provided, that Cities Service modify its filing and eliminate any costs for facilities not certificated and in service at the end of the test period.

In support of its requested waiver of the filing requirements of Order No. 488, Cities Service asserts that its filing was already completed at the time the order was issued and asks that it be given additional time to meet the extra requirements necessitated by that order. Since the filing of its application, however, Cities Service has supplied the supplemental material necessary to comply with Order No. 488, so no action is necessary on the requested waiver.

Cities Services also requests for waiver of Order No. 441 to permit it to include advance payments for lease acquisitions after November 10, 1971. As we expressly stated in Order No. 441 rate base treatment for advance payments for lease acquisitions was barred any past November 10, 1971, advances. We see no reason to deviate from this policy at this time and therefore reject the requested waiver without prejudice to Cities Service's pursuing this issue on the merits for prospective application only.

Cities Service has not employed the unmodified *Seaboard* method of classifying and allocating costs, which this Commission has previously indicated is the minimum acceptable method.[2] Cities Service's proposal does not have demand-commodity rates and its straight-line rates are based upon either unit zone costs or 100 percent load factor usage predicated upon company-wide demand and commodity costs. However, our review indicates that the use of the unmodified *Seaboard* methodology would result in higher straight-line rates, particularly as to rates for interruptible service. Therefore, to the extent that this proposal does not result in the allocation of costs and rates equivalent to those resulting from the use of the unmodified *Seaboard* method, Cities Service may be required to absorb the impact of any under-collections as may occur under the proposed rates.

Further review of the filing and the other issues raised by Cities Service in its application and those posed by petitioners for intervention indicates that certain matters are raised which require development in an evidentiary hearing. The proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. We shall therefore order a suspension of the rates proposed herein for the full statutory period.

The Commission finds:

(1) The proposed changes in Cities Service FPC Gas Tariff, Second Revised Volume No. 1, except for Original Sheet Nos. 37H-37N pertaining to coal gasification and advance payment tracking provisions, should be accepted for filing as hereafter ordered.

(2) The proposed tariff sheets should be accepted for filing, suspended and the use thereof deferred until January 23, 1973.

(3) Cities Service's requested waiver of Section 154.38(d)(3) of the Commission's Regulations and Order No. 441 should be denied.

(4) It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Cities Service FPC Gas Tariff, Second Revised Volume No. 1, as proposed to be amended in this docket.

(5) The requested waiver of § 154.63(e)(2)(ii) should be granted as conditioned below.

(6) Good cause exists to permit the intervention of the above named petitioners for intervention.

(7) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

The Commission orders:

(A) The proposed tariff sheets filed by Cities Service on March 30, 1973, are accepted for filing and suspended as hereinafter ordered, except that Original Sheet Nos. 37H-37N are rejected for filing under section 4 of the Natural Gas Act.

(B) Pending a hearing and decision thereon, the accepted tariff sheets are suspended for the full statutory term and the use thereof deferred until January 23, 1974 or until such time as they are made effective in the manner provided in the Natural Gas Act.

(C) Pursuant to authority of the Natural Gas Act, particularly Sections 4 and 5 thereof, the Commission's Rules and Regulations (18 CFR Ch. D, a public hearing shall be held, commencing with a prehearing conference on December 5, 1973, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the lawfulness and reasonableness of the rates and charges in Cities Service FPC Gas Tariff, Second Revised Volume No. 1 as proposed to be amended herein.

(D) At a prehearing conference on December 5, 1973, Cities Service prepared testimony (Statement P) together with its entire rate filing shall be admitted to the record as its complete case-in-chief

[2] *El Paso Natural Gas Company*, Opinion No. 600-A (May 8, 1972); *Sea Robin Pipeline Company*, Docket No. RP73-47 (Order issued November 13, 1972); *Texas Eastern Transmission Corporation*, Docket No. RP72-98 (Orders issued March 5, 1973 and June 28, 1973); *Natural Gas Pipeline Company of America*, Docket No. RP72-132 (Order issued July 18, 1973); *Colorado Interstate Gas Company*, Docket No. RP72-113 (order issued July 5, 1973).

subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to the conference.

(E) On or before November 27, 1973, the Commission Staff shall serve its prepared testimony and exhibits. Any intervenor evidence will be filed on or before December 10, 1973. Any rebuttal evidence by Cities Service shall be served on or before December 21, 1973. The public hearing herein ordered shall convene on January 9, 1974, at 10 a.m., e.s.t.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(G) Waiver of § 154.38(d)(3) of the Commission's Regulations under the Natural Gas Act and Order No. 441 is denied.

(H) Waiver of § 154.63(e)(2)(ii) of our Regulations is granted provided that Cities Service file substitute tariff sheets reflecting the elimination of any facilities not certified and in service at the end of the test period.

(I) The above-named petitioners for intervention are permitted to intervene.

(J) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

APPENDIX

[Docket No. RP74-4]

CITIES SERVICE GAS CO.

Sixth Revised Sheet PGA-1 would replace the currently effective rates of Fifth Revised Sheet PGA-1;

First Revised Sheet No. 37D provides for a change in the base cost of purchased gas in Cities Service Purchased Gas Cost Rate Adjustment Provision (PGA);

Original Sheet Nos. 37H-37N reflects the inclusion of a coal gasification rate adjustment provision and an advance payment rate adjustment provision.

[FR Doc.73-18606 Filed 8-31-73;8:45 am]

[Docket No. E-8352]

CONSUMERS POWER CO.

Notice of Filing of Superseding Wholesale Rate Contract

AUGUST 22, 1973.

Take notice that on August 13, 1973, Consumers Power Company (Consumers) on behalf of the City of Charlevoix, Michigan (City), tendered for filing a Wholesale Rate Contract dated July 12, 1973.

Consumers state that this contract, when effective, will supersede and cancel the Wholesale Rate Contract dated as of September 22, 1965 (designated Consumers Power Company Rate Schedule FPC No. 2), as amended, between [Consumers] and the City.

According to Consumers, the Superseding Wholesale Rate Contract will become effective on that date that the City discontinues the production of electric energy from its Bellaire Hydro Plant. Furthermore, and according to Consumers, the City has advised Consumers that it will discontinue production of electric energy from its Bellaire Hydro Plant on July 3, 1973.

Consumers, in its letter of transmittal, requests waiver of notice as required in § 35.3 pursuant to § 35.11 of the Commission's regulations under the Federal Power Act.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-18642 Filed 8-31-73;8:45 am]

[Docket No. E-8327]

DUKE POWER CO. ET AL.

Notice of Application

AUGUST 23, 1973.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 205 of the Federal Power Act and Part 35 of the regulations issued thereunder.

Any person desiring to be heard or to make any protest with reference to these applications should on or before September 14, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in a hearing related thereto must file petitions to intervene in accordance with the Commission's Rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. The applications referred to above are on file with the Commission and are available for public inspection.

Docket No. E-8327.
Filing Date, 7/20/73.
Name of Applicant, Duke Power Company.
By letter dated July 18, 1973, Applicant submits a supplement to its contract with the City of Gastonia, North Carolina. This contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FPC No. 227. The Supplement provides for Delivery Point No. 8 known as the East Gastonia Delivery Point, to be re-energized. Applicant requests July 20, 1973, as the effective date for this filing.

Docket No. E-8328.
Filing Date, 7/20/73.
Name of Applicant, Duke Power Company.
In its letter of July 19, 1973, Applicant requests that the May 23, 1973, supplement to its contract with the Laurens Electric Cooperative, Inc., be filed with the Commission. The Contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FPC No. 144. This supplement provides for a new delivery point, designated as the Williamston Delivery located southeast of Williamston, South Carolina. Approximately ¼ mile of existing line was converted from single phase to three phase in order to provide service under this supplementary agreement. The Applicant requests waiver of 30 day notice requirement and that June 20, 1973, be made the effective date of the proposed filing.

Docket No. E-8334.
Filing Date 7/26/73.
Name of Applicant, Alabama Power Company.
Applicant requests filing of its July 19, 1973, agreement with the Pea River Electric Cooperative, Inc.: this request is dated July 24, 1973. Exhibit A of the agreement describes the new delivery point designated as Eufaula, in Barbour County, Alabama. It is requested that the 30 day notice requirement be waived and that the date service commences be made the effective date with respect to this change in the rate schedule.

Docket No. E-8337.
Filing Date, 7/30/73.
Name of Applicant, New England Power Service Company.
Applicant's letter of July 20, 1973, submits for filing an Agreement of Amendment, between the Applicant and the Town of Hudson, Massachusetts, dated July 16, 1973. The Town of Hudson has requested that it become a member of NEPOOL on a composite basis with the Applicant. As evidenced by the Agreement of Amendment which is part of this proposed filing, Applicant is amenable to this request. The Agreement further provides for subtransmission service by Applicant of the Town of Hudson's entitlement. Waiver of the 30 day notice requirement is requested so that the subtransmission service contract would be effective as of July 1, 1973.

Docket No. E-8338.
Filing Date, 7/30/73.
Name of Applicant, Wisconsin Power & Light Company.
By letter dated July 26, 1973, Applicant proposes filing with the Commission the following:

(A) Power Pool Agreement between itself, Madison Gas and Electric Company and Wisconsin Public Service Corporation.

(B) A Joint Power Supply Agreement between the same parties as in (A), above:

(C) A revised service schedule between Wisconsin Power & Light Company and Wisconsin Public Service Corporation; and

(D) A revised service schedule between Madison Gas Electric Company and Wisconsin Power and Light Company.

With the exception of the Joint Power Supply Agreement, the proposed effective date for each of the documents referred to above is October 1, 1973.

Docket No. E-8339.
Filing Date, 7/30/73.
Name of Applicant, Northern States Power Company.

Applicant's letter of July 23, 1973, submits for filing Supplement No. 3, dated July 20, 1973 to the Twin Cities-Iowa-St. Louis 345 KV Interconnection Coordinating Agreement between Interstate Power Company, Iowa Electric Light and Power Company, Iowa Southern Utilities Company, Northern States Power Company and Union Electric Company. First Revised Exhibits A and B show the additional interconnections that were made to the 345 KV transmission line extending from Northern States Power Company's Red Rock Substation to the Sioux Substation of Union Electric Company. The Third Revised Service Schedule makes the following changes:

(A) The minimum rate charged for Emergency Energy is increased from 1.25 cents per KWH to 1.75 cents per KWH;

(B) 5 mills per KWH was established at the minimum rate charged for energy associated with Short Term Power;

(C) The rate for Excess Energy was increased from Incremental Cost plus .5 mill per KWH to Incremental Cost plus 1.0 mill per KWH.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-18607 Filed 8-31-73;8:45 am]

[Docket No. E-7870]

EDISON SAULT ELECTRIC CO.

Notice of Initial Rate Filing

AUGUST 22, 1973.

Take notice that Edison Sault Electric Company (Edison Sault) tendered for filing on April 26, 1972, as an initial rate filing the following contracts:

(1) Contract No. DA-20-064-ENG-632 between the United States of America and Edison Sault, third party beneficiary, Cloverland Electric Cooperative (Cloverland).

(2) Contract dated January 27, 1964, between Edison Sault and Cloverland for electric service.

(3) Contract dated January 30, 1970, and supplemental number one dated June 30, 1970, and supplemental number two dated June 30, 1970, for electric service to Cloverland.

(4) Contract between Edison Sault and Consumers Power Company (Consumers) dated December 1, 1966, and supplemental number one dated August 20, 1971, and letter modification to supplement number one dated February 29, 1972, for electric service.

(5) Contract between Edison Sault and Wisconsin Michigan Power Company dated January 2, 1959 and supplemental number one dated September 15, 1969, for electric service.

On June 26, 1973, Edison Sault submitted, in response to the Commission Secretary's letter dated June 1, 1972, two additional contracts between Edison Sault and Cloverland dated February 2, 1952, and November 1, 1957, respectively.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-18597 Filed 8-31-73;8:45 am]

[Docket No. RP74-8]

EL PASO NATURAL GAS CO.

Notice of Tariff Filing

AUGUST 22, 1973.

Take notice that on August 1, 1973, El Paso Natural Gas Company (El Paso) filed pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, Second Revised Sheet No. 56 to its FPC Gas Tariff, First Revised Volume No. 3, applicable to its Northwest Division System. El Paso states that the purpose of the changes proposed by the tendered tariff sheet is to modify the Purchased Gas Cost Adjustment Provision (PGAC), as contained in said tariff, to permit El Paso to include in PGAC rate adjustments any changes in the current level of unity amounts per Mcf payable to owners of overriding royalty interests,[1] attributable to leases acquired by El Paso prior to October 7, 1969, which may hereafter be awarded by arbitration boards.

El Paso states that it concluded arbitration proceedings before a board of arbitrators on July 12, 1973, with Sun Oil Company (Sun), pursuant to the terms of a Lease Sale Agreement dated September 26, 1952, for the determination of the unit amount per Mcf of the overriding royalty. El Paso states that it may be faced with paying increased royalty to Sun effective as of January 5, 1973, or a later date as may be established by the board of arbitrators and therefore requests waiver of notice requirements of § 154.22 of the Commission's Regulations and that the Commission accept the tendered tariff sheet for filing and permit it to become effective on that date or such later date as may be established by said board for any increase in the unit amount per Mcf awarded Sun. The decision of the board of arbitrators in this matter may be expected at sometime prior to September 1, 1973.

[1] The term overriding royalty refers to overrides and production payments, expressed in cents-per-Mcf, contained in certain of El Paso's lease sale agreements under which certain oil and gas leases were acquired by El Paso in the San Juan Basin area of northwestern New Mexico and southwestern Colorado. Such agreements provide for escalation of the unit amount per Mcf of such overriding royalty up to a ceiling amount (usually at the end of fifteen years) and for redetermination thereafter; failing agreement of the parties to redetermine the unit amount per Mcf for each subsequent five-year period, provision is made for arbitration.

The filing includes as Appendix A a listing of all of El Paso's lease sale agreements containing arbitration provisions which have now reached a point in their respective terms where, failing agreement of El Paso and the overriding royalty interest owner on a redetermined price for a five-year period, arbitration can be expected to follow. The filing indicates in the attached Appendix B that El Paso's exposure for each 1¢ increase in the unit amount per Mcf of the subject overriding royalty under such lease agreements could approximate an increase of $107,868 annually in El Paso's Northwest Division System cost of gas which would result in an increase in El Paso's Northwest Division System rates now under suspension at Docket No. RP73-109 by an average of 0.023¢ per Mcf.

El Paso further requests that waiver of the Commission's Rules and Regulations, including § 154.38(d)(4), be granted as may be necessary to implement the instant filing.

Any person desiring to be heard or to make any protest with reference to said tariff tender should, on or before September 4, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 15.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-18593 Filed 8-31-73;8:45 am]

EL PASO NATURAL GAS CO.

Notice of Rate Schedule Cancellation

AUGUST 21, 1973.

Take notice that on August 8, 1973, El Paso Natural Gas Company (El Paso) tendered for filing First Revised Sheet No. 92 to its FPC Gas Tariff, Original Volume No. 2A proposed to become effective after 30 days following the date of filing.

El Paso states the tendered tariff sheet, when accepted for filing and permitted to become effective will cancel special Rate Schedule FS-8 between it and Hemphill Gas Company (Hemphill). El Paso states further that a superseding Service Agreement dated February 1, 1973, between El Paso and Hemphill, tendered concurrently therewith will continue service to Hemphill under Rate Schedule X-1 of El Paso's FPC Gas Tariff, Original Volume No. 1, consistent with the directive of the Commission in ordering paragraph (E) of its order issued August 21, 1969, as amended, at Docket No. CP69-23.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 3, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-18643 Filed 8-31-73;8:45 am]

[Docket No. RP72-64]

CITY OF HENDERSON, KENTUCKY

Notice of Petition for Extraordinary Relief

AUGUST 22, 1973.

Take notice that on August 16, 1973, the City of Henderson, Kentucky (Henderson), filed a petition for extraordinary relief from the Terms and Conditions of the Texas Gas Transmission Corporation (Texas Gas) FPC Gas Tariff, Third Revised Volume No. 1.

Petitioner presently purchases gas from Texas Gas under the latters FPC Gas Tariff, Third Revised Volume No. 1, which contains certain Seasonal Quantity Entitlements (volumetric limitations). The Summer Quantity Entitlement for Henderson for the period April 1 through November 1 is 648,000 Mcf. Petitioner now estimates that its requirements for the 1973 summer season will be approximately 723,000 Mcf. Petitioner states, as reasons for this increase, the below normal temperatures of April and May of 1973 and the short supply of propane available needed to operate its propane-air manufacturing facility.

Therefore, Petitioner requests that the Commission grant them the right to overrun its Quantity Entitlement during the summer season of 1973 by approximately 75,000 Mcf and reduce its subsequent 1973–74 Winter Quantity Entitlement by such actual overrun amount, and be relieved of the seasonal overrun penalty as provided in Section 10.4 of the General Terms and Conditions of the Texas Gas FPC Gas Tariff, Third Revised Volume No. 1.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-18605 Filed 8-31-73;8:45 am]

[Docket No. E-8353]

INDIANAPOLIS POWER & LIGHT CO.

Notice of Application

AUGUST 23, 1973.

Notice is hereby given that on August 13, 1973, Indianapolis Power & Light Company (Applicant) filed an Application with the Commission seeking an order pursuant to Section 204 of the Federal Power Act, authorizing the issuance of up to $44,000,000 principal amount of unsecured short-term promissory notes.

Applicant is incorporated under the laws of Indiana with its principal business office in Indianapolis, Indiana, and is primarily engaged in generating, distributing and selling electric energy within the City of Indianapolis, and adjacent communities, towns and rural areas.

Applicant proposes to issue the Notes from time to time after the authorization thereof by the Commission, with a final issue date for all such Notes of June 30, 1975, and a final maturity date of December 31, 1975. Each Note will carry a maturity date of not more than one year after the date of issuance thereof. The Notes to be issued to commercial paper dealers will be issued at the prevailing published discount rate, in various amounts, but not to exceed $32,000,000 aggregate principal amount and will have maturity dates of not more than nine months from the date of issuance thereof, excluding any days of grace. The Notes issued to commercial banks will bear interest at a rate not to exceed the prevailing prime commercial lending rate of commercial banks in Indianapolis, Indiana.

The net proceeds to be received from the intial issuance of the Notes will be applied to the payment of part of the cost of Applicant's 1973–1977 construction program. Construction expenditures are estimated to be $55,732,000 for 1973, $60,003,000 for 1974, $80,349,000 for 1975, $149,046,000 for 1976, and $96,311,000 for 1977.

Any person desiring to be heard or to make any protest with reference to said Application should on or before September 7, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petition to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-18599 Filed 8-31-73;8:45 am]

[Docket No. E-8172]

KENTUCKY UTILITIES CO.

Order Denying in Part and Granting Motion for Rehearing and Instituting Investigation

AUGUST 22, 1973.

On May 1, 1972, Kentucky Utilities Company (KU) filed in Docket No. E-8172 a proposed rate increase, designated WPS-73, applicable to service provided by KU to eleven all-requirements municipal customers in Kentucky[1] and to its wholly owned subsidiary Old Dominion Power Company. The proposed increases in rates amount in total to approximately $733,000 annually, based on a 12-month test period ended July 31, 1972. The proposed effective date of WPS-73 rate schedules is August 1, 1973. KU states that the purpose of its filing is to bring the company's wholesale rates to a level more nearly reflecting increases in costs which it has experienced in recent years. Notice of KU's filing was issued on May 30, 1973, providing for comments thereon to be filed on or before June 15, 1973.

In an order issued June 29, 1973, the Commission rejected KU's filing with respect to the eleven municipal customers on the basis that the contracts were in fact fixed-rate contracts without any provision for unilateral changes in the specified rates during the term under the contract. Therefore, we stated that under the *Mobile-Sierra* doctrine,[2] KU may not increase its established rates without concurrence of the customers.

On July 23, 1973, KU filed with the Commission a Motion For Rehearing of the Order of June 29, 1973, with respect to the rejection of the filing as to the eleven municipal customers. KU states that under a recent decision of the United States Court of Appeals for the District of Columbia Circuit issued May 25, 1973, in *Richmond Power and Light of the City of Richmond, Indiana* v. *FPC* (D.C.C.A. Nos. 72-1963, 72-2035) the contracts are to be interpreted in accordance with Kentucky state law. Since Kentucky law permits unilateral filings, KU asserts the Commission must vacate its order of June 29, 1973 which rejected KU's filing

[1] The Cities of Barbourville, Bardstown, Bardwill, Benham, Corbin, Falmouth, Frankfort, Madisonville, Nicholasville and Providence, and Berea College serving the City of Berea at retail.

[2] *United Gas Pipeline Company* v. *Mobile Gas Service Corporation*, 350 U.S. 332 (1956); *FPC* v. *Sierra Pacific Power Company*, 350 U.S. 348 (1956).

because the contracts in question here were "fixed-rate" contracts.

We disagree for several reasons. Firstly, the *Richmond* case involved a contract which was entered into when it was contemplated that the Federal Power Commission might attain jurisdiction over the agreement. The court in *Richmond* stated that Indiana law must apply in executing the agreement because the parties specifically stated that the energy charge would be "at the rate and under the provisions of Company's (I & M) Tariff I.P. as regularly filed with the Public Service Commission of Indiana * * *." There is no such language in the present agreement between KU and the municipal customers. Each agreement provides:

> Each month the Customer will pay to the Company at its office, within 10 days of rendition of bills, for all energy delivered to customer during the preceding month or bimonth determined in accordance with Rate Schedule WPS-3R, which is made part of this contract. The minimum bill will be as provided in the rate schedule [3]

None of the municipal contracts refer to the rate on file with the Kentucky Commission. The parties specifically state that the rates are to be determined with reference to either Rate Schedules WPS-5 or WPS-3R. There is no indication of intent that the Kentucky law should apply and therefore the *Richmond* case is not controlling.

Likewise, *Anderson Power and Light of the City of Anderson, Indiana* v. *FPC* (——F.2d——CCADC No. 72-7035) is not controlling. In *Anderson*, the court made reference to contracts that were on file only with the state commission, whereas in this case the relevant contracts are on file with this Commission. Moreover, in *Anderson*, the court ruled that since the contract was entered into in 1957, the parties intended that Indiana law should apply and therefore an unilateral filing would not be allowed. The present contracts were entered into in 1963, 1965, 1969, or 1970 (see Appendix A). KU began filing on September 7, 1962, at the Commission's request. While the Commission's attempt to assert jurisdiction over the agreements was not finally affirmed until 1965, KU and the parties must have assumed the Commission might have jurisdiction since they filed the agreements with the Commission and with the Kentucky Commission. Therefore, *Anderson* is not controlling and the instant agreements are subject to the Commission's Rules and Regulations under the Federal Power Act.

A second reason for rejecting KU's contention that the present agreements are "going-rate" contracts is the conduct of KU itself. On August 1, 1965, KU made a unilateral filing with the Federal Power Commission and the Kentucky Commission substituting Rate Schedule WPS-5 for WPS-3R. The Federal Power Commission informed KU that its filing would not be accepted without customer approval. KU withdrew the filing and submitted a new one with customers' concurrence which was accepted on October 22, 1965. In 1969, KU proposed changes in its fuel adjustment clause. The Commission informed KU that it could not make such a change by a unilateral filing because of the "fixed-rate" contract. Again, KU acquired customers' approval and the filing was accepted. Both these filings by KU and its subsequent action in accordance with Commission's directives shows a clear intent on the part of KU to treat the agreements as fixed rate contracts.

We also note in its filing of May 1, 1973, KU has requested a Rate Adjustment Provision. This clause purports to give KU the authority to act in a manner which it argues, in its Application For Rehearing, that it already has. That is, the clause provides KU with the right to make unilateral filings. However, KU asserts that it also has this power under Kentucky law and due to the *Richmond* decision, the Federal Power Commission must follow Kentucky law. Assuming, *arguendo*, KU's position that the *Richmond* case is controlling, the request for such a clause would hardly be necessary.

A final argument by KU is that if the agreements are interpreted as "fixed-rate" contracts, they can be so interpreted only to the capacity specified in the existing contracts.

Although we continue to reject KU's filing as to the Municipal Customers under section 205, we shall institute an investigation under section 206 of the Federal Power Act to determine if the rates contained in the fixed rate contracts are in the public interest. With regard to deliveries in excess of the maximum contractual commitments of KU under these fixed rate contracts, we agree with KU and shall accept the new rates applied for herein as an initial filing with an effective date of August 1, 1973, the requested effective date, and institute an investigation under section 206 to determine whether such rates are in the public interest. The filing requirements of § 35.3(a) of the Regulations of the Federal Power Act will be hereinafter waived. The section 206 proceedings will be held in conjunction with the hearing previously ordered in this docket in the order of June 29, 1973. The dates for service of evidence in the section 206 investigation shall be the same as set forth in our order of June 29, 1973.

The Commission finds:

(1) KU's filing with respect to deliveries in excess of the maximum contractual commitment under the fixed rate contracts are treated as an initial filing and should be accepted effective August 1, 1973, and an investigation under Section 206 should be ordered to determine the justness and reasonableness of the rates charged therein.

(2) The filing requirements of § 35.3 (a) of the Regulations under the Federal Power Act are waived.

(3) With respect to the fixed rate contracts, an investigation under section 206 should be ordered to determine the justness and reasonableness of the rates under those contracts.

(4) KU's application for rehearing with respect to the Commission's rejection of KU's section 205 filing presents no new facts or principles which were not considered in our order of June 29, 1973, or which having been considered, warrant any change or modification of that order.

The Commission orders:

(A) KU's filing with respect to deliveries in excess of the maximum contractual commitment under the fixed rate contracts are treated as an initial filing and are accepted effective August 1, 1973, and an investigation under section 206 is ordered to determine the justness and reasonableness of the rates charged therein to be held in conjunction with the hearings and according to the procedures established in our June 29, 1973, order in this docket.

(B) With respect to the fixed rate contracts, an investigation under section 206 is ordered to determine the justness and reasonableness of the rates under those contracts to be held in conjunction with the hearings and according to the procedures established in our June 29, 1973, order in this docket.

(C) KU's application for rehearing of the Commission's order of June 29, 1973, is hereby denied with respect to its section 205 filing, and is granted with respect to deliveries in excess of the maximum contractual commitment.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

APPENDIX A

Customer	Date of contract	Designated rate schedule
Frankfort Electric & Water Plant Board	Aug. 21, 1963	WPS-5
Barbourville	Jan. 1, 1965	WPS-5
Bardstown	Aug. 20, 1963	WPS-5
Bardwell	July 2, 1963	WPS-5
Benham	Aug. 12, 1963	WPS-5
Berea College	July 18, 1963	WPS-5
Corbin	Sept. 3, 1965	WPS-3R
Falmouth	Sept. 14, 1970	WPS-3R
Madisonville	Mar. 10, 1969	WPS-3R
Nicholasville	Aug. 6, 1963	WPS-5
Providence	Aug. 20, 1963	WPS-3R

[FR Doc.73-18804 Filed 8-31-73;8:45 am]

[Docket No. RP74-9]

NORTHERN NATURAL GAS CO.

Notice of Request for Approval of Tracking Procedure

AUGUST 22, 1973.

Take notice that on August 6, 1973, Northern Natural Gas Company (Northern) tendered for filing a request for approval of procedure to track the rate effect of certain costs associated with expenditures for the testing and development of the Dallas Center Storage Project. Northern states that the initial development of this Project is scheduled during the years 1972-1977 and is esti-

[3] The contracts of some of the Customers entered into prior to September 1965 make reference to rate schedule WPS-5 rather than WPS-3R. These contracts were amended by agreement of both parties to the contracts in September 1965, to substitute rate WPS-3R for WPS-5 in those contracts. These contracts are on file with the Federal Power Commission.

mated to require an investment of $34.2 million, with an eventual total investment of $44.5 million. The company bases its request for tracking authority on its belief that it is necessary and highly desirable to reduce the future cost burden through the current recovery of the financing costs associated with the project. Specifically, Northern requests authority to track testing and development costs in its rates, effective December 27, 1973. The company avers that the procedure for tracking, as proposed, is identical in all significant respects with that set forth in Section VI of the Stipulation and Agreement, as amended, now pending before the Commission in Docket Nos. RP71–107 (Phase II) and RP72–127.

Northern states that copies of this filing have been mailed to each of its gas utility customers and interested State Commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 30, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73–18595 Filed 8–31–73;8:45 am]

[Docket Nos. AR61–1, etc., and Docket No. RP67–20]

NORTHERN NATURAL GAS CO.

Notice of Filing of Proposed Stipulation and Agreement

AUGUST 22, 1973.

Pursuant to § 1.36(a) of the Commission's rules of practice and procedure, notice is hereby given that on August 10, 1973, Northern Natural Gas Company (Northern) filed a proposed Stipulation and Agreement in settlement of a controversy regarding the proper disposition of refunds and interest received by Northern from numerous independent producers in the captioned matter.

Under date of June 19, 1969, Northern tendered for filing with the Commission and served upon each of its jurisdictional customers and interested state regulatory commissions a report of Northern's intended disposition of refunds and interest received by Northern from independent producers in FPC Docket Nos. AR61–1, *et al.*, which was the Permian Basin Area Rate proceeding. Said report was filed by Northern in compliance with Ordering Paragraph (K) of the Order Implementing Opinion Nos. 468 and 468–A, which Order was issued August 9, 1968, in AR61–1, *et al.* Northern asserted that its proposed disposition of the subject refunds was in accord with the relevant provisions set forth in the documents comprising Northern's settlement agreements in the rate cases at FPC Docket Nos. G–12153, *et al.*, G–19040 and RP67–20, which settlement agreements were approved by Commission orders issued November 27, 1963, December 27, 1961, and July 19, 1967, respectively.

On April 13, 1973, the Commission issued herein its "Notice of Filing of Proposed Refund Plan", and gave interested persons until May 3, 1973, to file comments or protests regarding Northern's intended disposition of refunds.

Under date of April 30, 1973, the Northern Distributor Group filed its "Protest" to Northern's proposed disposition of a portion of the subject refunds. In this Protest the Group recognized that under the terms of the settlement agreement in Northern's FPC Docket No. RP67–20 refunds received by Northern as a result of Commission orders reducing producer rates in proceedings under section 5(a) of the Natural Gas Act may be retained by Northern if such refunds do not reduce Northern's actual average cost of gas purchased for the periods involved below a certain base cost of gas. The Protest, however, went on to state that a portion of the refunds proposed to be retained by Northern may not have been the result of a producer rate proceeding under section 5(a) of the Natural Gas Act but might instead have been "§ 4(e) refunds which must be flowed-through to jurisdictional customers."

Thereafter, under date of June 12, 1973, Northern filed its "Response" to the Protest of the Northern Distributor Group, reasserting the correctness of its proposed distribution and advancing arguments in support thereof.

The proposed Stipulation would effect a final settlement of the controversy under which Northern would distribute to its jurisdictional customers the jurisdictional portion of $939,947 of the $2,029,000 in controversy, with Northern retaining the balance of $1,090,000.

The proposed Stipulation and Agreement is on file with the Commission and is available for public inspection. Comments with respect to the proposed Stipulation and Agreement may be filed with the Commission on or before August 29, 1973.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73–18644 Filed 8–31–73;8:45 am]

[Docket No. E–8363]

NORTHERN STATES POWER CO.

Notice of Application

AUGUST 23, 1973.

Take notice that on August 17, 1973, Northern States Power Company (Applicant) filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of 2,092,451 additional shares of its Common Stock, par value $5 per share.

Applicant is incorporated under the laws of the State of Minnesota, with its principal business office at Minneapolis, Minnesota, and is engaged in the electric utility business in central and southern Minnesota, southeastern South Dakota, and in the Fargo-Grand Forks and Minot areas of North Dakota.

The Common Stock is to be issued during October and November 1973. Applicant proposes to issue and sell the Additional Common Stock by (a) offering said shares to the holders of its Common Stock on the basis of one share for each 10 shares of Common Stock held of record on a date and at a price per share to be determined by the Applicant (b) offering, at the subscription price to employees and retired employees of Applicant and its subsidiaries such of the Additional Common Stock as shall not be subscribed for by the holders of subscription warrants and (c) selling at the subscription price, at competitive bidding, such of the above shares of Common Stock as are not subscribed by the holders of the subscription warrants or by employees and retired employees.

The proceeds from the sale of the Common Stock will be added to the general funds of the Company and will be used to pay part of the outstanding short-term borrowings of the Company incurred in connection with its construction program.

Expenditures during 1973 for the construction program of Applicant are estimated at $216 million, of which $203 million is for electric facilities, $6 million for gas facilities, and $7 million for heating, telephone, and general facilities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before September 7, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file and is available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73–18600 Filed 8–31–73;8:45 am]

[Docket No. E–8356]

NORTHERN STATES POWER CO.

Notice of Emergency-Type Service Agreement

AUGUST 22, 1973.

Take notice that on August 13, 1973, Northern States Power Company (Company) tendered for filing an Emergency-Type Service Agreement dated August 2,

1973, between the Company and East River Electric Power Cooperative, Inc. (East River).

The Company states that the Agreement terminates existing Emergency-Type Service Agreements designated as Rate Schedules FPC Nos. 285, 286, and 287 respectively.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-18601 Filed 8-31-73;8:45 am]

[Docket No. CP73-331]

NORTHWEST PIPELINE CORP.

Notice of Amendment to Application

AUGUST 22, 1973.

Take notice that on August 14, 1973, Northwest Pipeline Corporation (Applicant), P.O. Box 25249, Houston, Texas 77027, filed in Docket No. CP73-331 an amendment to its application filed June 15, 1973, in said docket pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of certain properties and gas pipeline and appurtenant facilities presently owned and operated by El Paso Natural Gas Company (El Paso), all as more fully set forth in the application, as amended, which is on file with the Commission and open to public inspection.

In the original application in this docket, Applicant requests authorization to acquire and operate all of the facilities and properties required in the operation of the Northwest Division of El Paso pursuant to the mandate of the United States Supreme Court ordering divestiture by El Paso, as implemented by the Orders and Opinion of the United States District Court for the District of Colorado entered on June 16, 1972, in *United States* v. *El Paso Natural Gas Co., et al.*, Civil Action No. C-2626, aff'd *sub nom. California-Pacific Utilities Co., et al.* v. *United States*, ____U.S.____ (1973). The estimated book value of the properties and facilities to be acquired as of December 31, 1972, was $303,157,000 which Applicant proposes to finance through the issuance of bonds and debentures to El Paso's bondholders for a *pro rata* share of El Paso's debt securities and the issuance of Applicant's common stock to El Paso, of which 20 percent would be sold to the APCO Group for a negotiated price and the remainder would be placed in a five-year voting trust for El Paso's shareholders.

Applicant has filed in the instant amendment the documents setting forth the terms and conditions of the proposed acquisition and operation. Included therein is a basic agreement dated August 7, 1973, providing for the transfer of assets proposed to be acquired, the plan for reimbursement to El Paso therefor, the acquisition by the APCO Group of 20 percent of Applicant's common stock and other related matters. Also included in the instant amendment is a plan for interim operation of the Northwest Division pending final acquisition, and agreement providing for the substitution of certain gathering facilities in the San Juan Basin proposed to be acquired, and an agreement providing for the mutual gathering of gas in the San Juan Basin. Applicant states that it will receive an additional $18 million in cash which will provide interim financing for the first year of operation. Applicant further states that the proposed substitution of facilities in the San Juan Basin will reduce the gathering charges Applicant expects to pay El Paso.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who heretofore filed protests and petitions to intervene need not file again.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-18608 Filed 8-31-73;8:45 am]

[Docket No. RP74-1]

NORTHWESTERN PUBLIC SERVICE CO. AND KANSAS-NEBRASKA NATURAL GAS CO.

Notice of Filing of Complaint

AUGUST 22, 1973.

Take notice that on July 6, 1973, Northwestern Public Service Company (Northwestern) filed a complaint, pursuant to section 5(a) of the Natural Gas Act, against Kansas-Nebraska Natural Gas Company, Incorporated (Kansas-Nebraska). The complaint alleges that Northwestern requested of Kansas-Nebraska an increase in its contract demand for gas under Kansas-Nebraska's CD-2 rate schedule, but was refused, despite the fact that Kansas-Nebraska was at the time of the request seeking a certificate under section 7 of the Natural Gas Act to provide its jurisdictional customers additional firm natural gas service during the winter period. Northwestern further states that it is informed and believes that Kansas-Nebraska has not banned all increases in natural gas to nonjurisdictional customers. Northwestern states that these practices are unjust, unreasonable, and unduly discriminatory, and requests that a hearing be held under section 5(a) of the Natural Gas Act.

Any person desiring to be heard concerning said complaint should file a petition to intervene or comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or comments should be filed on or before September 4, 1973. Comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make parties submitting comments parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this complaint are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-18603 Filed 8-31-73;8:45 am]

[Docket No. CP72-245]

OKLAHOMA NATURAL GAS CO.

Notice of Petition To Amend

AUGUST 28, 1973.

Take notice that on July 26, 1973, Oklahoma Natural Gas Company (Petitioner), 624 South Boston Avenue, Tulsa, Oklahoma 74119, filed in Docket No. CP72-245, a petition to amend the order issued in said docket pursuant to section 7(c) of the Natural Gas Act so as to authorize the continued sale for resale and delivery of natural gas in interstate commerce to Panhandle Eastern Pipe Line Company (Panhandle) from acreage in Kingfisher County, Oklahoma, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner was authorized by the order issued June 19, 1972, in said docket (47 FPC 1550) to sell on a "when available" basis up to 40,000 Mcf of gas per day at 35.0 cents per Mcf at 14.65 p.s.i.a. for one year ending June 19, 1973, pursuant to § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Petitioner now proposes to sell up to 30,000 Mcf of gas to Panhandle for one year at 45.0 cents per million Btu at 14.65 p.s.i.a., within the contemplation of § 2.70.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desir-

ing to be heard or to make any protest with reference to said petition to amend should on or before September 7, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-18596 Filed 8-31-73;8:45 am]

[Docket No. CI73-869]

PHILLIPS PETROLEUM CO.

Notice Deferring Procedural Dates

AUGUST 22, 1973.

On August 21, 1973, Phillips Petroleum Company requested a postponement of the procedural dates set by order issued July 31, 1973, pending disposition of its petition to amend in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are deferred pending further order of the Commission.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-18609 Filed 8-31-73;8:45 am]

[Docket No. CI73-869]

PHILLIPS PETROLEUM CO.

Notice of Amendment to Application

AUGUST 22, 1973.

Take notice that on August 13, 1973, Phillips Petroleum Company (Applicant), Bartlesville, Oklahoma 74004, filed in Docket No. CI73-869 an amendment to the application filed June 8, 1973, in said docket pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to El Paso Natural Gas Company from the Permian Basin Area, Eddy County, New Mexico, all as more fully set forth in the application, as amended, which is on file with the Commission and open to public inspection.

In the original application Applicant proposes, among other things, to sell approximately 46,000 Mcf of gas per month at an initial rate of 52.0 cents per Mcf, subject to upward and downward Btu adjustment. Applicant now proposes to sell gas at 45.0 cents per Mcf, plus Btu adjustment, in order to avoid the necessity of a formal hearing before the Commission and to expedite the sale of such a small volume of gas.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed protests or petitions to intervene need not file again.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-18610 Filed 8-31-73;8:45 am]

[Docket No. E-8285]

SOUTHERN INDIANA GAS AND ELECTRIC CO.

Notice of Service Agreement

AUGUST 22, 1973.

Take notice that Southern Indiana Gas and Electric Company (SIGECO) tendered for filing in August 16, 1973, a letter agreement between SIGECO and Alcoa Generating Corporation (Alcoa), providing for SIGECO to make 40 MW of firm power available to Alcoa.

SIGECO states that under the agreement Alcoa shall pay a demand charge to SIGECO each month during the term of the agreement whether or not Alcoa takes the total amount of energy available for that month. In addition to the demand charge, SIGECO claims that the agreement provides for an energy charge to also be assessed Alcoa; such charge to be computed at the operating Cost Rate for that month plus 10 percent multiplied by the KWH received by Alcoa.

SIGECO requests waiver of the notice requirements of § 35.13 of the Commission's regulations so that the agreement may become effective as of April 30, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-18602 Filed 8-31-73;8:45 am]

[Docket No. CP74-43]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

AUGUST 21, 1973.

Take notice that on August 14, 1973, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP74-43 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation, on a temporary basis, of its existing gas delivery points to Philadelphia Gas Works (PGW) as additional delivery points to Consolidated Edison Company of New York, Inc. (Con Ed), all as more fully set forth in the application which is on file with the Commission and open to the public inspection.

Pursuant to a request by Con Ed and PGW, Applicant proposes to deliver to PGW, for the account of Con Ed, before December 31, 1973, up to 500,000 Mcf of gas from Con Ed's CD-3 entitlement in volumes of up to 10,000 Mcf of gas per day. Applicant states that the proposed delivery points are upstream of the authorized delivery points to Con Ed and the temporary diversion of deliveries will have no appreciable effect on Applicant's system gas flow characteristics.

The purpose of the proposed diversion of deliveries is to assist in effectuating a short-term exchange of gas arrangement between Con Ed and Lowell Gas Company (Lowell) as the volumes of gas involved herein will be taken by PGW for Lowell's account.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on

this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-18645 Filed 8-31-73;8:45 am]

FEDERAL RESERVE SYSTEM

COMMONWEALTH NATIONAL CORP.

Acquisition of Bank

Commonwealth National Corporation, Boston, Massachusetts, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire up to 100 percent of the voting shares of Town Bank and Trust Company, Brookline, Massachusetts. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Commonwealth National Corporation is also engaged in the following nonbank activities: Financing the purchase of machinery and other property and making construction loans and short-term interim mortgages. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 20, 1973.

Board of Governors of the Federal Reserve System, August 24, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-18586 Filed 8-31-73;8:45 am]

FIRST BANCSHARES OF FLORIDA, INC.

Acquisition of Bank

First Bancshares of Florida, Inc., Boca Raton, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of (1) Southport American National Bank of Fort Lauderdale, Fort Lauderdale, Florida; (2) American National Bank and Trust Company of Fort Lauderdale, Fort Lauderdale, Florida; and (3) Sunrise American National Bank of Fort Lauderdale, Fort Lauderdale, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 20, 1973.

Board of Governors of the Federal Reserve System, August 24, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-18584 Filed 8-31-73;8:45 am]

FIRST VIRGINIA BANKSHARES

Acquisition of Bank

First Virginia Bankshares Corporation, Falls Church, Virginia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of First Bank and Trust Company, Brookneal, Virginia, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than September 20, 1973.

Board of Governors of the Federal Reserve System, August 24, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-18585 Filed 8-31-73;8:45 am]

PEOPLES BANK OF STARK COUNTY, CANTON, OHIO

Order Approving Merger Under Bank Merger Act

Peoples Bank of Stark County, Canton, Ohio (Applicant), a proposed State member bank of the Federal Reserve System, has applied pursuant to the Bank Merger Act (12 U.S.C. 1828(c)) for the Board's prior approval to merge with The Peoples-Merchants Trust Company, Canton, Ohio, under the charter of Applicant with the name of The Peoples-Merchants Trust Company and to operate branches at the locations at which The Peoples-Merchants Trust Company presently operates branch offices.

As required by the Act, notice of the proposed merger, in form approved by the Board, has been published and reports on competitive factors have been requested from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. All relevant material contained in the record has been considered in the light of the factors set forth in the Act.

On the basis of the record, the application is approved for the reasons summarized in the Order of the Federal Reserve Bank of Cleveland of this date relating to the application of Union Bancshares Company, Steubenville, Ohio, to acquire 100 percent of the voting shares, less directors' qualifying shares, of the successor by merger to The Peoples-Merchants Trust Company, Canton, Ohio.

The transaction shall not be consummated (a) before the thirtieth calendar day following the date of this Order or (b) later than three months after the date of this Order, and (c) the Peoples Bank of Stark County, Canton, Ohio, shall be opened for business not later than three months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Federal Reserve Bank of Cleveland, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective August 16, 1973.

WILLIS J. WINN,
President.

[FR Doc.73-18590 Filed 8-31-73;8:45 am]

UNION BANCSHARES CO., STEUBENVILLE, OHIO

Order Approving Acquisition of The Peoples-Merchants Trust Co., Canton, Ohio

Union Bancshares Company, Steubenville, Ohio (Applicant), a bank holding company within the meaning of the Bank Holding Company Act, has applied for approval of the Board of Governors of the Federal Reserve System under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire up to 100 percent, less directors' qualifying shares, of the voting shares of The Peoples-Merchants Trust Company, Canton, Ohio (Bank).

The bank into which Bank will be merged has no significance except as a means of acquiring the voting shares of Bank. Accordingly, the proposed acquisition of the successor organization is treated as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with Section 3(b) of the Act. The time for filing comments and views has expired, and none have been received.

Applicant controls one bank, The Union Savings Bank and Trust Company, Steubenville, Ohio (Union Bank), which had total deposits of $28 million as of December 31, 1972. It has no nonbanking affiliates. Union Bank is the fourth largest bank in the Steubenville, Ohio, Weirton, West Virginia banking market and held 9.2 percent of the deposits in the market at year end. Bank with $113.2 million in deposits as of December 31,

1972, is the third largest bank in the Canton banking market with 15 percent of the deposits. The resulting banking organization would be the 29th largest in the State and would hold 0.55 percent of the total deposits held by all banks in Ohio. Accordingly, acquisition of Bank would not add significantly to the concentration of banking resources in Ohio.

The nearest offices of Bank and Union Bank are 60 miles apart. One county, containing three banks operating five offices, separate the offices of the two banks. In view of this, and since State law, in general, prohibits banks from branching outside of the county in which their main office is located, neither bank has any significant amount of business in the banking market served by the other and the probability that either of the banks could develop any significant volume of business in the market of the other in the future is unlikely. Accordingly, there would be no adverse effect upon competition.

Acquisition of Bank by Applicant would permit Union Bank to make considerably larger loans through participations with Bank; the sophisticated EDP system operated by Bank would be available to Union Bank and its customers; and the administration of trust accounts at Union Bank would have the benefit of the experience and investment capability available through the staff of Bank. Accordingly, the considerations of convenience and needs lend some weight to approval of the application.

In general, the financial and managerial resources of Applicant, Union Bank, and Bank are regarded as satisfactory. The assistance that would be given Union Bank in the administration of fiduciary accounts gives some weight for approval of the acquisition.

On the basis of the record as summarized above, the Federal Reserve Bank of Cleveland approves the application, provided that the transaction shall not be consummated (a) before the thirtieth calendar day following the date of this Order or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board or by this bank pursuant to delegated authority.

By order of the Federal Reserve Bank of Cleveland, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective August 16, 1973.

WILLIS J. WINN,
President.

[FR Doc.73-18588 Filed 8-31-73;8:45 am]

UNITED MISSOURI BANCSHARES, INC.

Acquisition of Bank

United Missouri Bancshares, Inc., Kansas City, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent (less directors' qualifying shares) of the voting shares of United Missouri Bank of Blue Springs, National Association, Blue Springs, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than September 20, 1973.

Board of Governors of the Federal Reserve System, August 24, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-18587 Filed 8-31-73;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regulations; Temporary Regulation D-42]

SECRETARY OF AGRICULTURE

Delegation of Authority

1. *Purpose.*—This regulation delegates authority to the Secretary of Agriculture to appoint uniformed guards of the Department of Agriculture as special policemen for duty in connection with the policing of Plum Island, New York, an area under the administration of the Department of Agriculture.

2. *Effective date.*—This regulation is effective immediately.

3. *Delegation.*—a. Pursuant to the authority vested in me by the Federal Property Administrative Services Act of 1949 (63 Stat. 377), as amended, and the Act of June 1, 1948 (62 Stat. 281), as amended, authority is hereby delegated to the Secretary of Agriculture to appoint uniformed guards as special policemen, to make all needful rules and regulations, and to annex to such rules and regulations such reasonable penalties (not to exceed those prescribed in 40 U.S.C. 318c) as will ensure their enforcement for the protection of persons and property at Plum Island, New York, over which the United States has exclusive jurisdiction.

b. The Secretary of Agriculture may redelegate this authority to any officer or employee of the Department of Agriculture.

c. This authority shall be exercised in accordance with the limitations and requirements of the above cited acts, and the policies, procedures, and controls prescribed by the General Services Administration.

ARTHUR F. SAMPSON,
Administrator of General Services.

AUGUST 24, 1973.

[FR Doc.73-18615 Filed 8-31-73;8:45 am]

[Federal Property Management Regulations; Temporary Regulation D-41]

SECRETARY OF THE INTERIOR

Delegation of Authority

1. *Purpose.*—This regulation delegates authority to the Secretary of the Interior to appoint uniformed guards of the Department of the Interior as special policemen to serve at Hoover Dam on the Colorado River near Boulder City, Nevada, under the administration of the Department of the Interior, to assist in visitor control and protection of Government property.

2. *Effective date.*—This regulation is effective immediately.

3. *Delegation.*—a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and the Act of June 1, 1948 (62 Stat. 281), as amended, authority is hereby delegated to the Secretary of the Interior to appoint uniformed guards as special policemen to make all needful rules and regulations, and to annex to such rules and regulations such reasonable penalties (not to exceed those prescribed in 40 U.S.C. 318c) as will ensure their enforcement for the protection of persons and property at the Hoover Dam facility on the Colorado River near Boulder City, Nevada, over which the United States has concurrent jurisdiction.

b. The Secretary of the Interior may redelegate this authority to any officer or employee of the Department of the Interior.

c. This authority shall be exercised in accordance with the limitations and requirements of the above cited acts, and the policies, procedures, and controls prescribed by the General Services Administration.

ARTHUR F. SAMPSON,
Administrator of General Services.

AUGUST 24, 1973.

[FR Doc.73-18616 Filed 8-31-73;8:45 am]

NATIONAL ENDOWMENT FOR THE HUMANITIES

SCIENTIFIC KNOWLEDGE AND HUMAN VALUES PANEL

Notice of Meeting

AUGUST 29, 1973.

The following is a correction to a notice published in the FEDERAL REGISTER on August 23, 1973. Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Scientific Knowledge and Human Values Panel will meet from 9:45 a.m. to 1:45 p.m. on September 19, 1973, in room 1120, 806 15th Street NW., Washington, D.C.

The agenda is as follows:

Preliminary reports
Election of co-Chairman
Program Scope
Program Priorities
Collaborative roles of National Endowment for the Humanities and the National Science Foundation.

The meeting will be open to the public. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street

NW., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.73-18620 Filed 8-31-73;8:45 am]

RESEARCH GRANTS PANEL

Notice of Meeting

AUGUST 1, 1973.

Pursuant to Public Law 92-463, The Federal Advisory Committee Act, notice is hereby given that a meeting of the Research Grants Panel will take place in Washington, D.C., on September 13-14, 1973.

The purpose of this meeting is to review research grant proposals that have been submitted to the Endowment for possible grant funding.

Based on section b(4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call Area Code—202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.73-18621 Filed 8-31-73;8:45 am]

VETERANS ADMINISTRATION

CAREER DEVELOPMENT SELECTION COMMITTEE

Notice of Meeting

The Veterans Administration gives notice pursuant to P.L. 92-463 that a meeting of the Career Development Selection Committee, authorized by 38 USC 4101, will be held at the Veterans Administration Central Office, Washington, D.C., on October 25, 1973, at 8:30 a.m. The meeting will be for the purpose of scientific review of applications for appointment to the Career Development Program in the Veterans Administration hospital system. The Committee advises the Assistant Chief Medical Director for Research and Education in Medicine on selection and appointment of Research and Education Associates, Clinical Investigators, Medical Investigators and Senior Medical Investigators. The Committee also makes a recommendation as to the recipient of the William S. Middleton Award.

The meeting will be open to the public up to the seating capacity of the room from 8:30 a.m. to 9 a.m. to discuss the general status of the program. Because of the limited seating capacity of the room, those who plan to attend should contact Dr. Chester W. DeLong, Executive Secretary of the Committee, VA Central Office, Washington, D.C. (202-389-5065) prior to October 23.

The meeting will be closed from 9 a.m. to 5 p.m. for consideration of individual applications. Minutes of the meeting and rosters of the committee members may be obtained from Mrs. Darlene R. Whorley, Chief, Career Development Section, Research Service, Veterans Administration, Washington, D.C. (phone 202-389-5065).

Dated August 28, 1973.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

By direction of the Administrator.

[FR Doc.73-18592 Filed 8-31-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 333]

ASSIGNMENT OF HEARINGS

AUGUST 29, 1973.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after September 4, 1973.

I&S No. 8844, Pulpwood & Woodchips, Within SGA Territory, continued to September 17, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 82841 Sub 104, Hunt Transportation, Inc., now assigned September 10, 1973, at Kansas City, Mo., is cancelled and the application is dismissed.

MC 133316 Sub 7, Frank R. Givigliano dba Givigliano Transport, now assigned September 10, 1973, at Denver, Colo., is postponed indefinitely.

MC-2335 Sub 38, Adirondack Transit Lines, Inc., now assigned October 15, 1973, at Albany, N.Y., is postponed indefinitely.

MC 118722 Subs 2 and 3, Frigid Express, Inc., now being assigned hearing October 15, 1973 (3 days), at New York, N.Y., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-18691 Filed 8-31-73;8:45 am]

[Car Distribution Direction No. 93; Amdt No. 3]

ATLANTA AND WEST POINT RAILROAD CO., ET AL.

In the matter of Atlanta and West Point Railroad Company, Carolina, Clinchfield and Ohio Railway, Georgia Railroad and Banking Company, Louisville and Nashville Railroad Company, Seaboard Coast Line Railroad Company, the Western Railway of Alabama.

Upon further consideration of Car Distribution Direction No. 93 and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 93 be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.*—This direction shall expire at 11:59 p.m., September 30, 1973, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., August 31, 1973, and that this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 24, 1973.

[SEAL] INTERSTATE COMMERCE COMMISSION,
R. D. PFAHLER,
Agent.

[FR Doc.73-18662 Filed 8-31-73;8:45 am]

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	*Date*
23765-23922	Sept. 4

federal register

TUESDAY, SEPTEMBER 4, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 170

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

■

Land Registration, Formal Procedures, and Advertising Sales Practices, and Posting of Notices of Suspension

Title 24—Housing and Urban Development

CHAPTER IX—OFFICE OF INTERSTATE LAND SALES REGISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-73-228]

LAND REGISTRATION, FORMAL PROCEDURES, AND ADVERTISING SALES PRACTICES, AND POSTING OF NOTICES OF SUSPENSION

On May 4, 1973, the Department of Housing and Urban Development published for public comment a proposed revision of Chapter IX of Title 24. Within this chapter, amendments to Parts 1700, 1710, and 1720 were proposed, and a Part 1730, Advertising, Sales Practices, Posting of Notices of Suspension, was proposed to be added to this chapter. Public comments were received and on June 28, 1973, an informal public hearing was held in accordance with a notice published in the FEDERAL REGISTER on June 6, 1973. This notice also announced the extension of the June 15, 1973 deadline for receipt of written comments to June 28, 1973.

Careful consideration has been given to all comments and certain suggestions have been adopted in whole or in part, as reflected in this Chapter IX. These are described in detail in the following paragraphs.

PART 1700—INTRODUCTION

Section 1700.100, Separability of Provisions, is added to make it clear that if any provision in the regulations should be declared invalid by any court of competent jurisdiction, the remaining regulations would not be affected.

PART 1710—LAND REGISTRATION

In § 1710.1, a definition of "lot" is added and the definition of "sale" is amended. The definition of lot, § 1710.1(h), demonstrates the nature of the interest which is subject to the coverage of the Interstate Land Sales Full Disclosure Act (Act).

Considerable comment was received with respect to the proposed definition of lot. Essentially, comments complained that OILSR is seeking to regulate everything from securities to country club memberships. Since in this range of coverage condominiums were mentioned most frequently, OILSR policy on condominium coverage is set forth herein.

The application of the Act to condominiums has been consistent OILSR policy since the issue was first raised in 1969. The bases for this position are that condominiums carry the indicia of and in fact are real estate, whether or not the units therein have been constructed. A condominium is accordingly viewed by OILSR as equivalent to a subdivision, each unit being a lot. Adverse comment, particularly from builders, asserts that condominiums are equivalent to houses and the sale of houses was not intended to be covered by the Act. However, the right to condominium space is a form of ownership, not a structural description. This condominium concept is employed as an ownership form for completely horizontal developments and even for campgrounds. Congress recognized the need to exempt professional builders from the Act and provided an appropriate exemption (15 U.S.C. 1702(3)). For a condominium unit sale to be exempted from the Act, it must accordingly qualify for exemption; i.e., either it must be completed before it is sold, or it must be sold under a contract obligating the seller to erect the unit within two years from the date the purchaser signs the contract of sale. For the purposes of the exemption cited, "building" comprises the dwelling unit and all utilities or systems necessary to support normal occupancy. Additionally, if a condominium dwelling unit is merely incidental to the common facilities (as in the case of recreational developments), all common facilities must be completed within the two-year period to qualify for the exemption since frequently vacation sites are sold without assurances that such facilities will be completed. With respect to condominiums intended as primary residences in metropolitan areas, registration typically is unnecessary since most professional builders would qualify for the exemption inasmuch as they are able to deliver a completed unit to a purchaser within two years after the contract of sale has been signed.

Further, the legislative history of the Act has been cited as not authorizing coverage of condominiums. However, there is negligible legislative history on the present Act and that legislative history with respect to predecessor bills is unclear on this subject. It is OILSR's position that the amended definition of lot merely codifies OILSR's longstanding position on condominiums and is a valid exercise of the Secretary's regulatory authority under the Act to implement the provisions thereof.

Some comments objected to the inclusion of "undivided interest" in the definition of lots as exceeding the statutory authority of the Secretary, inasmuch as the statute is aimed at divisions of land. Accordingly, the proposed definition of lot has been changed to show that although legitimate undivided interests are not covered by the Act, any plans or schemes which in fact are tantamount to a sale or lease of a divided interest although purporting to be a sale or lease of an undivided interest, are covered. This too codifies longstanding OILSR policy.

Also, the language regarding the square yard exception in this proposed definition has been deleted in its final form as being unwarranted in view of § 1710.13(a).

The definition of sale, § 1710.1(n), encompasses any obligation binding a purchaser to directly or indirectly acquire a lot. Such obligations may include options and reservations. The words "or arrangement" are added in response to commentators who advised that the proposed language was not broad enough to satisfy the objectives sought by the proposal.

In § 1710.5, General Applicability, the word "land" is changed to "lots." This is a technical change made to conform with the new definition of lots.

Section 1710.13(a) is amended to delete the 10,000 square feet minimum necessary to qualify for this exemption. This change is to exclude souvenir- or postage-stamp-type operations from the registration requirements. These are more appropriately the subject of Postal Service and Federal Trade Commission jurisdiction.

Section 1710.13(c), which was proposed to be added, is withdrawn pending further consideration.

Section 1710.21 is amended to delete certain words which were published as a result of a printer's error.

Section 1710.22 is amended to provide a procedure whereby replatting of already subdivided land may be included in a filing. The fee for such filing is based on the additional lots to be offered as a result of the replatting.

Section 1710.27(a) is amended to require material that has been filed with an acceptable state to be filed with the Secretary within 15 rather than 10 days after it becomes effective under the applicable state law. This extension is based on the experience of both OILSR and the industry regarding delays in mail service. This section is also amended by the addition of a paragraph (a)(5), which requires that acceptable state consolidations amendments must be accompanied by state certifications when submitted to the Secretary.

Section 1710.35 is changed by adding a paragraph (h), which requires a $100 fee for the second and any subsequent pre-effective amendments unless waived by the Secretary.

Section 1710.45(a)(3) is amended to permit a developer 15 days after receipt of a suspension notice within which to request a hearing, instead of the present 10 days. Also, a new paragraph § 1710.45(a)(4), is added to make clear that suspension notices are effective until all deficiencies cited in the notices are corrected. This paragraph has been changed from the form of the proposal for the purpose of clarity.

Section 1710.102 is amended to require inclusion of a subdivision plat, title evidence and copy of the sales contract as supporting documentation to the Statement of Reservations, Restrictions, Taxes and Assessments.

Section 1710.105 is amended in several parts. The format is amended by adding appropriate lines to conform with the instructions which will be discussed in detail. This includes Part XV regarding the developer's affirmation.

The Instructions for Completion of the Statement of Record are amended first, by identifying the major paragraphs by capital letters A. through H. Paragraphs presently designated by lower case a. through c. are now designated 1. through 3., and a new paragraph 4. is added. Paragraph 2. is changed to specify that documentation and certifications as well as other material information may be required by the Secretary. New paragraph 4. states that all amendments shall

be prepared and filed in accordance with the amendment procedure in § 1710.23.

Paragraph B. is amended to include a requirement that Statements of Record shall be bound. This requirement does not refer to a binding but a fastening together of all pages in the Statement of Record. Also, a requirement that the date of typing of each page of the Statement of Record appear in the lower right-hand corner of each page is made. This step will facilitate processing of amendments.

New paragraph G. (change 12 in the proposals), dealing with the developer's obligation to complete facilities, has been modified in response to comments asserting that the proposed regulation attempted to equate a "proposal" with a legal obligation. As revised, this paragraph recognizes two categories of proposals: obligatory and nonobligatory. The proposals required to be disclosed are those which the developer is obligated to fulfill and those which a third party is obligated to fulfill, if the third party is adequately identified. Proposals which no one is obligated to fulfill may be disclosed only if accompanied by a statement that the developer (or other party) has no obligation to fulfill them.

The paragraph immediately preceding Part I, Administrative Information, is now designated H.

Part I.B.3. is expanded to require inclusion of lots that are added by consolidations and to clarify that the number of lots offered must be supported by appropriate exhibits and must be consistent with the lots identified in the Property Report.

Part I.B.7. requires a disclosure of sales made prior to registration, or disclosure of whatever exemption was applicable to such sales. Some comment was received that this regulation will be counter-productive in that it discourages developers from registering their subdivisions if sales have been made while the subdivision was unregistered. These comments were considered but were not believed to be persuasive on the matter.

Four new items of disclosure are added as Parts I.C.3. through 6. Part I.C.3. has been modified to omit the requirement that developers submit copies of proposed Property Reports to the States in which they expect to offer their lots. This change is responsive to the many comments that were received asserting that a proposed Property Report is virtually meaningless and that inasmuch as many States have no designated agency to use the Property Report, the proposed requirement would have little value.

Part I.C.4. requires the developer to disclose any filings or intended filings with the SEC that are related to the subdivision and identification of such filing and any reference made to the subdivision in the SEC prospectus.

Part I.C.5. requires a statement regarding the involvement of subdivision owners or other principals in SEC filings. Comments received complained of the burden on developers and the lack of relevance to OILSR's responsibilities. After careful consideration, however, it was determined that the benefits for consumer protection available through disclosure of SEC history outweighed any potential burden on developers. The cut-off date for making such disclosure is April 29, 1969, the effective date of the OILSR Act.

Part I.C.6. requires disclosure of any disciplinary action taken by the SEC with respect to persons identified in Part I.C. The key item of criticism with respect to this proposal was that there should be a cut-off date beyond which disclosure of disciplinary action would not have to be made. OILSR has rejected this suggestion as inimicable to adequate disclosure.

Part I.D.2. is added to require the submission to OILSR of any Property Report, subdivision report or similar document that is filed with any State listed in Part I.C.I.

Part I.D.3. is withdrawn based on OILSR's re-examination of the proposal.

The present Part II.C. is redesignated as II.D.1., to which is added II.D.2., which is discussed below. A new Part II.C. is added. Part II.C.1. requires disclosure of any disciplinary measures taken against, indictments or convictions of the developer and principals of the developer in connection with certain enumerated activities, plus "any other activity . . ." This proposal was the subject of heavy commentary, the thrust of which was three-fold: the disclosure of indictments was criticized because indictments are not dispositive of guilt. Although not dispositive of guilt or innocence, indictments are more than mere allegations and not returned unless there is some probable cause indicating a crime has been committed. Consequently, disclosure of indictments is retained in the regulation as a relevant disclosure. The second main objection to this proposal is that no cut-off time was included beyond which developers would not have to disclose disciplinary actions, etc. Disclosures of this nature are deemed relevant and are retained in final publication. The third and most heavily commented upon area was the broad scope of the actions required to be disclosed; i.e., some disciplinary actions or even convictions might have no relevance to the land sales operation. Consideration of these comments revealed them to have merit. Accordingly, the overly broad phrase "any other activity for which such official action was charged" is modified to limit these other activities to areas of fraud, misrepresentation, deceptive sales practices or similar grounds.

Part II.C.2. requires disclosure of bankruptcies by certain persons named in this part. Also, certain specified information such as the names of the petitioners, the trustee and counsel are required to be disclosed. Comment again went to the fact that no cut-off period was allowed. OILSR has accordingly set a cut-off period of 13 years. Also, there was objection to the potentially broad scope that the names and addresses of "any other parties involved" in the proceeding be disclosed. The latter comment was found to have merit and the objected-to phrase is deleted. As in the case of the violations required to be disclosed in II.C.1., the remainder of II.C.2. is retained for final publication with only the deletion as to other parties noted above. Many comments were directed to Part II.C.3. which requires disclosures regarding litigation. First, disclosure of litigation, it was asserted, will spur nuisance suits, upon the bases that developers would rather settle than have suits disclosed in their registrations. OILSR does not believe this practice would be widespread enough to justify deletion. Accordingly, a disclosure requirement for litigation is retained.

There appears to have been some misunderstanding with respect to the proposed $100 fee for pre-effective amendments. Because of the requirement that new actions or the disposition of pending actions would require amendment, some commentators believed that such amendments would have to be accompanied by $100 fees. Such is not the case; no fee is charged for any amendment to an effective registration. The requirement that "all current litigation . . . which may have an effect upon the developer or the subdivision" be listed was criticized as overly broad and would include a listing of virtually all litigation in which a developer is engaged. OILSR finds this argument persuasive and has modified this proposal to require all current litigation of which the developer is aware and which may have a material effect upon the offering or the subdivision.

The materiality factor carries over to the comments on Part II.D.2., which requires copies of legal documents involved in the litigation or other action. This proposal is also modified in final form to be more selective and require only documents dealing with substantive matters.

Part III.A. is amended to require disclosure of involvement in all other subdivisions whether or not they are registered with OILSR. In response to comments received a modification in the proposal has been made by retaining disclosures regarding an "ownership" interest in the land.

A new Part III.B. is added to require information as to the subsidiary status of the developer and involvement of the parent corporation in other subdivisions.

The present Part III.D. is redesignated III.C. and is essentially the same as its present form. Some of the few comments that were received on this proposal indicated a belief that a Suspension Order is a preliminary document. This is not the case. A Suspension Order is a final, though appealable, action by OILSR.

In Part IV., IV.A. has been deleted, and IV.B. through F. have been redesignated IV.A. through E.

Part IV.A. is retained as proposed. It differs from the present regulations by requiring at IV.A.2. disclosures with respect to the location of the subdivision within a 100 year flood plain and the availability of flood insurance; and at Part IV.A.4. by deleting the disclosure requirement regarding "unusual construction techniques" which may vary from area to area, to language having universal understanding by engineers and agronomists.

Part IV.B. is retained in the same form as proposed and is identical to the former Part IV.C.

Part IV.C. is retained in its proposed form, which was previously identified as Part IV.D.

Part IV.D.1. through 6. is retained as proposed and is identical to the present Part IV.E.1. through 6.

Part IV.D.7. and 8. were the subjects of numerous comments. Part IV.D.7. requires the developer to state whether a building permit is needed by a purchaser before construction on an individual lot is permitted and if so, to identify the agency from which the permit must be obtained. The proposal also required developers to describe the procedure a purchaser would follow in the process of obtaining the building permit. Describing the procedure was considered to be unnecessarily burdensome. The comments were found to raise valid points and since the basic fact of a building permit requirement is disclosed, the objected-to provision of this regulation has been omitted.

Part IV.D.8. requires the developer to identify government agencies which have the authority to regulate or issue permits or licenses in connection with development of the subdivision, or in the absence of such authorities, a statement to that effect, or if the subdivision is exempt from any of these types of authorities, a statement of the bases therefor. The all-encompassing nature of this proposal, the identification of agencies even though a permit or license might not be required for development, together with the assertion that the field of environmental protection and conservation is today in a state of flux were points raised. Believing that these comments are valid, the final form of Part IV.D.8. has been changed to delete the provision requiring identification of certain agencies and by qualifying the required identification of other agencies whiich clearly have the authority to issue permits or licenses only if action by such agencies would have a material effect on the developer's plans. This regulation is intended to reveal the potential exposure of a developer's liability in situations where, for example, ski slopes are cut, canals are dredged, lakes are built or bulkheads are formed, and it is reasonable to assume that there is some public agency responsible for approving or rejecting these kinds of development. Other examples of the types of agency identification contemplated by this regulation are planning boards and health authorities.

Part IV.E. includes the present Part IV.F. but is essentially a new section. It requires as supporting documentation for disclosures made in Part IV. of professionally prepared plats and sets forth certain criteria therefor. Also, Part IV.E.2., which requires the submission of current U.S. Geological Survey maps, prohibits the submission of photocopies made by the developer. Black and white copies will not be accepted because topographical maps are virtually useless unless color keys are known. Part IV.E.3. requires as supporting documentation copies of the permits, licenses, opinions or similar documents obtained from the agencies identified in Part IV.D.8. Since the language in IV.D.8. has been revised to narrow the type of agencies with which OILSR is concerned, the supporting documentation required at IV.E.3. should not prove burdensome. As a response to comments to Part IV.E.1. that a subdivision may be offered in stages and that future sections might not be platted at the time of the initial submission, this paragraph is amended in its final form to specify that lot dimensions are required only of lots that are the subject of a given filing.

Part V. is amended by including in Part V.A. a requirement for disclosure of the condition of title to common areas or facilities included in the offering. The reference to title evidence for common areas and facilities in amended Part V.A.1. drew some comment to the effect that the common facilities should be only those which are a part of the offering. These comments apparently overlooked the change in Part V.A. mentioned above that specifically related the common areas or facilities "to or included in this offering." There was also comment that condition of title should be limited only to existing common facilities. Disclosure of the status of title with respect to planned common facilities is essential if this disclosure is to be meaningful, and the proposal will accordingly be retained.

Evoking substantial comment was deletion from Part V.A. of the language allowing the submission of an interim title binder or commitment for title insurance. The thrust of the comments was that status of the title to the property is revealed in title binders, especially in the standard ALTA binder, and that to require the issuance of a policy would be very costly to the developer. The use of title binders as a widespread practice in all phases of real estate operations was also cited. Nevertheless, because developers may seek to sell land that they do not own, the proposal eliminating the use of title binders as evidence of title is retained.

Part V.A.6. through 9. are added, which sets forth certain requirements to be made a part of the title evidence. There being no comment, these provisions are retained in their entirety. However, there are a few editorial changes improving syntax and the order of certain existing sections in Part V.

Part VI.A. is amended by adding paragraphs 4. through 8. as follows: Part VI.A.4. requires a disclosure regarding the existence of any contractual provisions by which the purchaser's selection of a lot may be changed by the developer, as in the case of the prior sale of the same lot, or as a result of a purchaser's failure to qualify with eligibility requirements established by the developer or any other qualifying body.

Part VI.A.5. requires disclosures with respect to a purchaser's right to exchange his lot for another lot and of provisions which offer the purchaser a refund which may only be applied toward the purchase of another lot.

Part VI.A.6. requires disclosures regarding the type of sales transaction to be used, the period of time that will elapse prior to transfer of title to a purchaser, whether or not contracts and deeds will be recorded and who has the responsibility for recordation, the term of installment payments and the interest rate charged. The final form of this paragraph has been changed in response to comments received directed to use of the words "time of closing," which in the industry is not as definitive a term as "transfer of title." Also, rather than a disclosure of the interest rate which the developer expects to receive, the final provision requires a disclosure of the annual interest rate charged.

Part VI.A.7. requires disclosure of the developer's anticipated plans with respect to the sale or assignment of sales documents. The final form of this regulation was changed in response to comments which indicated that it is often difficult for a developer to know at the time of registering his subdivision whether or not he will be keeping or selling his paper.

Part VI.B. is retained in its present form; i.e., the format is still entitled "Proposed Range of Selling Prices or Rents," and the proposed disclosure of the range of prices for similar lots in the area is deleted in final publication. The proposals were dropped in response to comments pointing out that selling prices can practically only be provided in a proposed range and that requiring information on similar lots in the area, particularly without any criteria along these lines, imposed an unwarranted burden on developers.

Part VI.C.1. is amended by setting forth the exact language that is required in contracts or agreements to notify a purchaser of his revocation rights. Presently, this matter is covered by a general instruction. Also, some specificity is provided to show the scope of the terms "contracts or agreements," which OILSR considers to include promissory notes, mortgages and deeds of trusts. Part VI.C.1. is changed to read in the second, rather than the third person.

WAIVER OF PURCHASER'S REVOCATION RIGHTS is added to Part VI.C.1. and the phrase is required to be capitalized. The waiver is in two parts: The notice provision, which informs purchasers of their rights to void their contracts if they do not get a Property Report and of their right to revoke their contracts for a 48-hour period after signing their contracts if they did not receive Property Reports at least 48 hours before signing the contracts or agreements. Purchasers are also notified that the revocation rights are lost if they acknowledge that they have made an inspection of the lot and that they have read and understood the Property Report. They are also advised to seek professional guidance if they have difficulty in understanding the Property Report.

The Acknowledgment by the Purchaser, acknowledges not only the purchaser's inspection of the lot he intends to purchase and receipt and understanding of the Property Report but also his understanding that he is waiving his rights to revoke his contract. Further, acknowledgments must be prepared on a separate paper which is attached to the contract or agreement, one copy of which is to be given to the purchaser and another retained by the developer.

Additional requirements provide that the revocation and voidability provisions may not be limited or qualified in the contract or in any other document by requiring a specific type of notice or by requiring that notice be given in a specified place. Considerable commentary was received regarding the waiver provision. Some say that the length of the notice would have a tendency to keep purchasers from taking the time to read its entire text and would therefore be counter-productive. The length versus brevity argument is one that has always existed and currently exists. However, OILSR continues to require the fullest disclosures for consumer protection. This position applies generally to all of these regulations and not just the waiver provision. One comment raised a narrow but valid point worthy of clarification; namely, that while a type-size requirement is set forth for the acknowledgment by purchaser, no such requirement is made for the description of a purchaser's rights that are placed in the contract or agreement. The latter language is to appear at least in the same size type as the remainder of the contractual terms.

Some commentators argue that use of the word "waiver" is an invalid exercise of the Secretary's authority under the Act; that sec. 1404(b) of the Act provides that the revocation authority "shall not apply" to transactions in which certain conditions have been satisfied and that compliance with these conditions cannot be deemed a waiver of a purchaser's rights since the rights never vest unless the conditions are not met. A similar argument is made for the statement in the purchaser's acknowledgment that the purchaser understands that he is waiving his rights under the Act to revoke his contract. An argument against segregating the acknowledgment from the body of the contract was also made based on the language in sec. 1404(b).

Although the acknowledgment is segregated from the body of the contract, it is a part of the contract. Instructions in this part specifically states that it "shall be attached to the contract or agreement used in the sale or lease . . . ." With respect to the form of, and the use of the word "waiver," as a practical matter, an on-site purchaser does in fact waive his revocation rights primarily because (1) he is unaware of his rights in the first place and (2) too often he is presented a paper and asked to sign a receipt for it or asked to initial a paragraph in a sales contract without knowing its import or its impact. In implementing the statute, any individual section or part of it must be viewed in terms of the overall purpose and spirit of the statute. It is clear from OILSR's experience that the part of Sec. 1404(b) that deprives a purchaser of his revocation rights has been a subject of abuse which is not consonant with the purposes and objectives of the Act and purchaser protection. Therefore, except for editorial changes and a renumbering of paragraphs in this part, the language is essentially the same in final publication as in the proposed rule.

Part VII.C. is amended to include a new paragraph 4 which requires as supporting documentation a synopsis of plans for road construction, including estimated cost and certain drawings. The proposal is changed in final form in response to comments which complain that the proposed wording covered roads outside the subdivision. Certain editorial changes are also made to eliminate duplication in the request for cost data and a redundancy. There were comments complaining that this regulation would, in effect, force developers to do some thoughtful planning prior to registering their subdivisions. These complaints were rejected as indicative of one of the basic problem areas resulting in less than full disclosure; namely, little or poor planning and failure to disclose the limitations of actual planning.

Part VIII.A. is amended to add disclosures with respect to the identity and financial capability of the water supplier, the obligations of purchasers to the supplier and the degree and duration of control of the developer in cases where the developer controls the supplier of the water. These changes are accomplished by amending Part VIII.A.2. to include paragraphs a. through d., as well as changes in paragraph 2. itself. In response to comments that the language proposed for Part VIII.A.2. was ambiguous and that on its face it required certain information about the entities supplying water whether or not such entity was a major power company or a developer-created water district, this paragraph has been changed to require the disclosure only if the entity supplying water is controlled by the developer, and the rates are not regulated by a public body.

Part VIII.A. is also amended by deleting the present paragraph 7., redesignating the present paragraph 8., amending paragraph c. and adding paragraphs e. through h. Part VIII.A.7c. requires the submission of a report indicating the source and quantity of the water. Part VIII.A.7d., which is presently identified as 8d., is amended to require an interpretation of the chemical and bacteriological evaluation of the water into layman's language.

Part VIII.A.7e. requires as supporting documentation copies of the organization documents or proposed organizational documents of the entity supplying the water. Part VIII.A.7f. requires copies of membership agreements with similar documents by which lot owners will be required or permitted to use the services of the supplier. Part VIII.A.7g. requires financial statements or pro forma financial statements of the supplier. Part VIII.A.7h. requires a synopsis of plans for obtaining and distributing the water, including the estimated cost of the water system; this requirement is similar to that now required at Part VII.C.4.

There are certain grammatical corrections made to the paragraphs of Part VIII.A.

Part VIII.E. is amended by expanding the disclosure requirements to those coextensive with Part VIII.A. In the case of Part VIII.E. no paragraph is deleted as in Part VIII.A. Since the comments received with respect to Part VIII.A. were identical or nearly identical to those applying to Part VIII.E., further discussion will not be made on these points.

Part VIII.F. is amended by redesignating paragraph 5., Supporting Documentation, as paragraph 8., by requiring in new paragraphs 5., 6., and 7. disclosures whether the developer has a program to control soil erosion and flooding and if so, whether the program has been approved by any appropriate authority and whether the developer is under any obligation to follow through with the program.

The new Supporting Documentation provisions Part VIII.F.8., require in addition to present documentation, a copy of the appropriate authority's approval of the erosion plan, if any, and a synopsis of the plan, degree of completion of the work and estimated cost of the work.

The proposed language which required a statement as to whether the developer had a comprehensive program to control soil erosion and as to whether it had been approved by appropriate officials, also provided further that a plan which does not obligate the developer to perform (such as a USDA Soil Conservation Service plan) was not acceptable for the purposes of supporting documentation. This last mentioned provision has been deleted in response to comments that a "comprehensive" soil erosion program was a vague requirement, that many jurisdictions do not have officials to approve or disapprove soil erosion programs and that the USDA Soil Conservation Service is one of the few agencies that does have such a program, even though it has no authority to enforce a program it has approved. Although they were not published for comment some guidelines for the preparation of soil erosion plans are provided in the final form of this regulation. Basically these guidelines define the type of information sought in the program synopsis submitted pursuant to this regulation.

Part IX.A.5. is amended to include a synopsis of the plans, degree of completion of work and estimated cost of the proposed recreational facility contemplated in this part. This is accomplished by designating the new requirements as IX.A.5. a. and b. No comments were received specifically on this change. However, the comments relating to the synopses of plans required as supporting docu-

mentation in Parts VII., VIII. and IX. applied to all such parts. One comment complained that furnishing estimated cost of completion was irrelevant. OILSR believes such cost figures to be relevant in assessing the time and feasibility of completion.

Part X. is amended by adding a paragraph G.1. through 3., which requires disclosures concerning the availability of postal service and the locations and distances of post offices in the area.

Part XI.C.3. is amended by requiring disclosure stating how a deficit will be recovered if one is incurred.

The proposed changes to Part XIV., financial statements, also received substantial comment and several suggested changes have been adopted. Use of the phrase "significantly different" in connection with subsequent filings was attacked as vague. Further, it was considered unclear whether the initial interim financial required to be audited, and that it was unclear whether the subsequent six month financials required to be audited. It was also maintained that audited and certified financials generally would be costly, especially for the small developer. Part XIV.A has been changed to now require audited financials for the last full fiscal year, plus unaudited statements for an interim period of up to six months. The audits and certifications are required if either the price of the lots in the subdivision totals $500,000 or more or the subdivision contains 300 or more lots. The proposed regulation set $300,000 as the price limitation. The $500,000 figure has been substituted in response to comments as more realistic. After the initial filing, a developer must submit annual audited statements only if they disclose a material adverse effect on the developer's financial position.

There was a suggestion that net worth rather than retained earnings be used as a threshold that would require an amendment to the Property Report, but the revised requirement expanding the applicable period from six to twelve months, plus the importance of the developer's cash position, persuaded OILSR to retain the retained earnings deficit criterion. Comment was made questioning the Secretary's authority to require these financial statements, claiming the private nature of financials. This authority is clear, however. Sections 1406 (11) and 1405(d), respectively, authorize the disclosure required in this part and its public nature. Some developers asserted that segregating their audited financials from the consolidated statements of their parent companies would be burdensome. OILSR believes such a position to have little merit and has made no special provision to accommodate subsidiaries.

Other comments advanced were that purchasers of lots, unlike purchasers of stock, have no need to inquire into the financial strength of the developer. In reality, however, the prices purchasers pay for lots typically include promised or proposed improvements to be made by the developer, and the developer's financial status has a direct bearing on its ability to provide such improvements. The argument was also made that most developers have been able to obtain financing without furnishing audited financials to their lenders. However, it is significant that lenders normally are given security for the loans granted or they provide loans based on a fraction of the face value of the security, or both. Additionally, lenders have sources of information concerning financial security of developers that are not generally available to purchasers. It has been OILSR's experience that improved and meaningful financial disclosure is essential to achieve the objectives of the Act.

Part XV, Affirmation, was proposed to read as a first person statement of legal obligation "to carry out the proposals, promises and obligations set forth in this Statement of Record and Property Report." An instruction to Part XV. was also proposed to be added to require the signatures of the developer's chief executive officer, chief financial officer and a majority of its board of directors to be affirmed. Comments on these proposals were twofold: that proposed language purported to impose personal liability upon corporate officers for failure to fulfill obligations or to create a personal guarantee by corporate officers to fulfill obligations; and that proposals were elevated to the status of binding obligations when in many cases realization of the proposals was contingent upon action by a party other than the developer. Examination of the comments has persuaded OILSR to modify the proposed regulation. Accordingly, the affirmation has been amended to delete any inference of personal liability for corporate officers, to distinguish proposals that are promises or obligations from those for which the developer does not intend to be obligated and by clarifying that the affirmation is required by all developers and not just corporate developers. Responsibility of the Senior Executive Officer or his duly authorized agent is retained. OILSR notes in this connection that the criminal statute 18 USCA 1001 *Statements and entries generally* provides for fine and imprisonment when false, fictitious or fraudulent statements or entries are made in any matter within the jurisdiction of the Department.

SECTION 1710.110—PROPERTY REPORT

This section has been revised by dividing the section into four parts, A., B., C., and D. Part A. contains the regulations for the Property Report format; Part B., the technical instructions for completing the Property Report and lease addendum; Part C., instructions for answers in the Property Report; and Part D., additional paragraphs to be added in special circumstances. These new parts contain most of the existing regulations relating to the Property Report, as well as many new amendments. This has caused some developers to comment that the report will now be so long that purchasers will be discouraged from reading the report, and thus be less informed than they might otherwise be. These comments have been rejected based upon recognition of the responsibility of the Office of Interstate Land Sales Registration in requiring developers to make as much pertinent information available to purchasers as possible. There are many aspects, both physical and inherent, in the purchase of land and it would be unwise to shorten the report at the expense of omitting vital information which may enable the purchaser to make a more informed decision.

The last sentence of the first paragraph of this section has been amended to make it clear that the questions must be answered in accordance with the format in Part A. and the instructions in Parts B.–D.

PART A—FORMAT

Part A. contains the provisions for the Property Report format. The first paragraph of the notice and disclaimer has been amended in order to emphasize the unlawfulness of representing Federal Government approval of the subdivision, whereas, the present regulation merely states that the Property Report is not a Government recommendation. In addition, the proposed paragraph contained a statement that the Federal Government has not passed on the merits or given approval to the subdivision or passed on the value of the property as an "investment." Several comments critical of the quoted term were received because it was believed the word "investment" suggested that the property did in fact have "investment" potential. Other developers stated that they simply did not want to represent that there was "investment" potential in particular subdivisions. As a result of these comments, the pertinent part of the paragraph has been changed from "or passed upon the value of the property as an investment" to read as follows: "or passed upon the value, if any, of the property."

A new second paragraph has been added to include a statement that representations made contrary to the restrictions in the first paragraph are "unlawful," not, "it shall be unlawful" as provided in the proposed regulations. The paragraph also provides that any representation which differs from the contents of the Property Report is unlawful, and should be reported to HUD at the address given in the paragraph.

The third paragraph of the notice and disclaimer contains the new suggestion that purchasers "seek professional advice" in considering their purchase, and adds the words "by notice to the seller" in advising the purchaser of his contract voidability rights. Some comments said the directive, "seek professional advice" should be deleted, because the proposed "Waiver of Buyer's Rights" form already contained a similar provision which states, that if the buyer has "difficulty in understanding any of the provisions stated in the Property Report, you should consult an attorney or seek other professional assistance". Comments suggested that the advice is more useful in the waiver since the purchaser is surrendering certain rights under the Act, contrasted to the notice and disclaimer where it is assumed the purchaser understands the nature of his actions. Despite

the suggestion, the advice in the notice and disclaimer format is thought to be germane to the purchaser's considerations of the Property Report. The addition of the words "by notice to the seller" has been retained as proposed to alleviate factual disputes between purchasers and sellers as to whether recission rights have actually been exercised.

Objections to the use of the term "Buyer's Rights Form" in the waiver paragraph of the proposed regulations were also directed to the use of that term in the proposed last paragraph of the notice and disclaimer format. As in the prior instance, the term has been changed to "waiver of purchaser's revocation rights form".

The format for paragraph 4 of the Property Report has been amended by revising subparagraphs b. and c., and to redesignate c. and d. as d. and e. The changes will make it clear who will bear the cost, if any, of recording contracts, and the amount of the costs if they are to be borne by the purchaser. Further, in the event of his default, whether the purchaser's loss will be limited to the amount of his payments or whether he will be responsible for paying the balance of the contract. As suggested by one of the comments, the word "immediate" has been deleted where it precedes the word "recording" in proposed subparagraph b., and similarly, subparagraph c. has been changed from the proposed regulations to allow for contingencies where deeds or contracts will not be recorded.

Paragraph 8. of the format for the Property Report has been amended by deleting the parenthesis from the lettered subparagraphs, and inserting periods after each letter. Subparagraph c. has been revised to require a list of permissible uses of the property consistent with restrictive covenants and local zoning ordinances.

Paragraph 9. of the format has been amended by deleting the (a) designation, and the (b) designation as proposed. In addition, the paragraph has been amended by using different examples of recreational facilities and, by also requiring disclosure of the ownership of the facilities. The listing of facilities is now required in tabular form of all those proposed or partially complete, as well as those available, as presently required. Additional information required in the new table includes the percentage of completion, estimated completion date, financial assurance of completion, whether the developer is obligated to complete, and the buyer's cost or assessment.

Paragraph 10. of the format has been amended by adding three subparagraphs, a., b., and c., which require statements of the availability of roads, utilities, and municipal services, respectively. Information is also required concerning whether such are proposed or partially complete, estimated completion date, provisions to assure completion, and an estimate of all costs to the buyer.

Paragraph 13. of the format has been amended by deleting information on facilities now dealt with in paragraph 10., but retaining information on shopping facilities.

Paragraph 15. of the format has been amended by deleting the parenthesis from a. through c. and inserting a period after each letter.

Paragraph 17. of the format has been amended to require information concerning physical access to lots and common facilities and the ownership of streets and the responsibility for maintenance.

Paragraph 19. of the format has been amended in order to require disclosure concerning whether the corners of individual lots have been marked so that the purchaser can identify his lot. If not, the estimated cost to the purchaser to obtain a survey must be provided.

A new question 20. has been added to the format which requires a statement whether there is a comprehensive program to control soil erosion, sedimentation and flooding throughout the subdivision and a description of the plan, if any. If there is a plan, approval of appropriate local officials must be indicated, as well as the obligation of the developer to comply.

A new unnumbered paragraph titled "Special Risk Factors" has been added to the format. This paragraph appeared as paragraphs 21. and 22. in the proposed regulations. However, much critical comment was received on the workability of the proposed regulation in a question and answer form; hence, the material has been inserted as points for general consideration. The special risk factors cite the uncertainty of future land values, that the purchaser's resale of his lot may be in competition with the developer's sales program, and other possible restrictions on the purchaser's sales efforts. Purchasers are advised that they may be required to fully satisfy the terms of payment in contracts or promissory notes in the hands of developers or third parties, even though the developer may have defaulted on his promises, and in addition, that changes in the laws of governmental agencies relating to land development and use, may affect the future procurement of permits to use the land.

The format has been amended by adding a new paragraph titled "Financial Statements." The purpose of this paragraph is to direct attention of the lot purchaser to the financial position of the developer by requiring financial statements to be attached as exhibits to the Property Report. The requirement originally appeared in the proposed regulations at the instructions to Part C., paragraph 21c. Despite objections that the requirement is useless because purchasers won't understand the statements, and that unnecessary expenses will be incurred by developers in attaching the exhibit, it is believed that the exhibit will be of immense value to purchasers in giving them adequate information on the basis of which an intelligent judgment can be formed on the opportunities and risks involved in the purchase.

PART B—TECHNICAL INSTRUCTIONS FOR COMPLETING PROPERTY REPORT AND LEASE ADDENDUM

The instructions for completing the Property Report and lease addendum have been redesignated as "Part B. Technical Instructions for Completing Property Report and Lease Addendum." In addition, the section in the existing regulations captioned "Additional Requirements for Property Report" has been incorporated into the new Part B., which contains significant new matter. To begin with, subparagraph d. under instructions for completing the Property Report and lease addendum of existing regulations authorizes the Secretary to require additional information in the Property Report when it appears to him that the additional information is necessary in the public interest. The proposed regulations deleted the provision that the Secretary could require the information, and instead required the developer to add the information whenever appropriate in the public interest or for the protection of purchasers. Several objections were filed to the proposed regulation objecting to placing a burden upon developers to determine when the criteria was met. The final regulations, therefore, retain the existing language by placing the burden on the Secretary to make the determination. The provision is further expanded, however, to require statements which are necessary to make provisions in the Property Report not misleading in the "light of the circumstances under which they are made."

New Part B contains the rest of the subparagraphs which are contained in the existing regulations as subparagraphs b. through f. under "Additional requirements for the Property Report." Those sections are now numbered 8 through 12. Part B 3 contains a new provision that the Property Report shall contain no covers, pictures, emblems, logograms, or identifying insignia. On the first page of the Property Report format, which is the notice and disclaimer, the new instruction 3 requires an over print in centered capital letters in light red type with the following legend: "Purchaser should read this document before signing anything." Also required at the bottom two and one-half inches of the front page is a perforated receipt to be signed by each lot purchaser evidencing the fact that he has received a copy of the Property Report. The receipt is to be retained by the developer and shall be made available for inspection by the Secretary upon demand.

There were many objections in the written comments concerning these provisions, particularly the red overprint warning. Generally, the comments characterized the overprint legend as implying that the Government of the United States is suspicious of the land development industry, and is putting a dampening effect upon the sales efforts of the developers. It is believed that overprint legend on the first page of the Property Report is necessary in order to apprise

lot purchasers of the importance of the Property Report. All too often, salesmen will bury the Property Report amid several other papers, brochures and advertisements, and the purchaser is unaware of the significance and even the existence of the Property Report. The result is that he does not read the Property Report prior to signing his contract and, therefore, is unaware of many important factors concerning his lot. The receipt form should cure many situations in which lot purchasers claim never to have received the Property Report, and there is a factual dispute with the developer. By requiring the receipt to be placed at the bottom of page 1, it is hoped that the attention of the lot purchaser will be more directly focused upon the existence and significance of the Property Report.

A new provision to be contained in Part B. is subparagraph 13 which requires that the format shall be prepared by the developer in such a manner that the introductory information will immediately inform the purchaser of any adverse effects. In addition, mere proposals by the developer to construct amenities or any other improvement affecting the lot (as opposed to already accomplished action) may not be included in the Property Report unless clearly identified as such. Moreover, the developer will be required to state whether he will be obligated to complete such proposals. If the developer wishes to include proposals in the Property Report which he is not obligated to complete, the Property Report is required to contain the following: "The developer is not legally obligated for some of the proposals which he has included in this Property Report."

PART C—INSTRUCTIONS FOR ANSWERS TO PARAGRAPHS IN THE PROPERTY REPORT

The designation of these regulations as Part C. is new, but it embodies to a large extent requirements in the existing regulations under the heading "Special Instructions." The section headings under this part have been changed from those in the proposed regulations to designations corresponding to the referenced paragraph of the Property Report.

The instruction for paragraph 2B has been amended to require a brief legal description of the land offered for sale. The description follows a unit, block, lot description, and permits excepting certain numbered lots. A metes and bounds outboundary description of the subdivision is not required in this paragraph. In response to comment, the procedures for describing lots offered in consolidations are spelled out in the new paragraph 2B instruction.

Paragraph 4 of the instructions has been restructured from the existing instruction because the existing paragraph 4 contains overlapping material with other instructions. The impact of the new paragraph 4 instruction is directed to questions of recording sales contracts or leases, and the effect upon the purchaser in the event recording is not available. In line with some comments, paragraph 4b has been changed from the proposed regulations so as to delete the requirement that developers describe potential adverse effects resulting from the lack of contract recordation. In addition, provision has been made for an answer to be inserted stating that down payments may be set aside in a trust or escrow account if the closing meets the criteria of § 1710.11(c) (1) (ii).

Paragraph 5 requires disclosure of the buyer's risk of losing his "financial interest in the property." This phrase is used in lieu of "investment" in response to comments that this term is vague. The paragraph also mandates supporting documentation where the mortgagee agrees to accept mortgage payments directly from the purchaser when the developer is in default.

Paragraph 7 of the instructions has been expanded. The requirement in the existing regulations that buyers be told of obligations to pay taxes, special assessments and similar charges continues in effect. However, the Property Report must disclose to the purchaser whether construction of proposed facilities will be financed by a property owners' association or similar organization and, if so, whether the developer has control of that entity. Disclosure must be made when the developer's control over the organization will be relinquished and the amounts of any loan or debt, and whether the funds of the association may be used for private purposes on private land other than the one in which the purchaser is buying his lot. A special statement is required in the event the organization is not formed, in which case the Property Report must inform the purchaser that the developer's proposals for facilities lack definition, and that they may not be able to be carried out. In addition, if the answer to Part XI.C.2. of the Statement of Record indicates that not all lot purchasers will be required to belong to the association, then a statement is required in the Property Report that the purchasers who belong to the organization may have to pay a disproportionate share of the cost of operating the facility. Several comments were received suggesting that a distinction be made in the "degree" of control a developer may have over the property owner's association. However, these suggestions failed to indicate how such a distinction could be applied and accordingly OILSR has not adopted them.

Paragraph 8.b. of the instructions has been expanded to require that subdivision restrictions are required to be listed in their entirety, but if lengthy, incorporated by reference. There were several objections to this proposal, mainly from the standpoint that the requirement would further lengthen the Property Report and would cause a great burden upon the developer to insure that a lot purchaser in a particular section was getting the right set of restrictions. In line with the comments, the proposed regulation has been changed in this final version to provide that when more than one section in the subdivision is covered by general restrictions, the developer may summarize those, and attach the restrictions which are applicable to the particular unit involved.

A new paragraph 8.c. has been added to the instructions for the Property Report. It requires answers to this part of the Property Report to list the land uses consistent with the restrictions on the property, and whether the zoning regulations are consistent with the restrictions. If a lot cannot be used for a homesite, a statement to that effect must be included. If there is an architectural control committee, the name of the entity must be included and a statement of the control, if any, of the entity by the developer. In addition, a statement is required indicating whether the buyer must obtain a permit from a state or local agency before he may construct on his lot.

Paragraph 8.d. of the instructions remains essentially unchanged from existing regulations. However, the possibility and the extent of flooding is more carefully delineated in these final regulations. In addition, if the subdivision is located in an area of special flood hazard, a statement is required whether flood insurance is available. There were general comments dealing with the difficulty faced by developers in responding to this instruction, in that, what may be considered a hazard in one part of the United States, may not be so in other parts. However, we believe that developers in various parts of the country will readily recognize special hazard conditions in their locale, and will have little difficulty in making accurate responses. Further, the National Flood Insurance Act which is administered by HUD requires identification of flood-prone areas in connection with eligibility of a community to participate in the program. As a result, identification of all flood-prone areas in the United States is proceeding rapidly.

Paragraph 9. includes a new instruction. In the event the developer is unable to submit the supporting documentation required by Part IV.E.3. of the Statement of Record, which are copies of the permits obtained from governmental agencies for the construction of facilities, common areas or other improvements, he is required to state that such inability makes him unable to give any assurance that the lot owners will be able to use the particular facility. In addition, if the developer has not obtained necessary documentation required by Part IX.A.5. of the Statement of Record, his answer to this item of the Property Report must state that he has not entered into any arrangements to assure completion of the recreational facilities. Comments were received which urge that some governmental jurisdictions did not issue permits until construction had been completed, therefore making it impossible for developers to document such items. Developers suggested that they should be afforded opportunities to explain such situations without being forced to make the answers proposed of they are irrelevant or otherwise subject to explanation.

OILSR's position is that the absence of a permit demonstrates a lack of certainty that the developer will ever obtain or be granted a permit. Accordingly, this proposed instruction requiring disclosure of this uncertainty is retained in final publication. In addition, paragraph 9. seeks information in completing the pertinent table in the format for the Property Report. Here, if the developer has submitted documentation of an obligation to complete a facility, he may include a statement to that effect at the end of his answer.

The instructions for answers to paragraph 10 of the Property Report spell out answers and statements which must be included in the Property Report in the event that public facilities are not available, or have not been completed. The instructions to paragraph 10. in the new regulations are significantly expanded from those in the existing regulations. However, this is necessary in keeping with the belief that as much pertinent useful information should be given the purchaser to make a sound decision. This information must be extracted from the Statement of Record and placed in the Property Report. In response to objections to use of "promise" where the developer is merely proposing to furnish completed facilities, "proposals" has been substituted.

The instruction for paragraph 20. has been revised from that in the proposed regulation in order to distinguish between natural hazards, including identifiable flood areas, and erosion and flooding caused by excessive rainfall and lack of a soil conservation program.

The signature of the senior executive officer or his duly authorized agent is required at the end of the Property Report, but facsimile signatures may be used for the purpose of reproduction, as urged in the comments.

PART D—ADDITIONAL PARAGRAPHS TO BE ADDED TO THE PROPERTY REPORT IN SPECIAL CIRCUMSTANCES

This new Part D. has been added to the instructions for answers to the Property Report in the interest of informing consumers of special circumstances which they are advised to consider. This part contains eight numbered paragraphs. These relate to: whether the subdivision plat map has been recorded, and whether it must be approved by local authorities before it is platted of record; situations where the financial statement of the development indicates a deficit and whether the accountant's opinion on the financial statement is qualified; special rights of the developer to encumber the land subsequent to the purchaser signing a contract; the effect of bankruptcies or litigation upon the operation of the subdivision; and information concerning foreign filings. In connection with foreign filings, statements are required whether it is necessary to obtain a license from the Foreign Government as a condition to acquire title to a lot in a subdivision, and whether it is necessary to obtain a work permit, license or similar permit to do business in the foreign country.

Section 1710.115 contains the regulations for the notice and disclaimer format which is required to preface state property reports. The notice and disclaimer are patterned after the notice and disclaimer in the HUD Property Report. As noted in that section, the disclaimer states that the Federal Government has not passed upon "the value, if any, of the property." The proposed regulation contained the word "investment," which has been deleted in the final regulation. In addition, the waiver caption has been changed from "buyer's right form" to "purchaser's revocation rights form."

Section I of § 1710.120 has been amended as proposed to require state statements of record to conform to the format and instructions for statements of record in § 1710.105, Part II., in addition to Parts I. and III., as presently required. Accordingly, paragraph B. of sec. II of § 1710.120 has been deleted, as proposed. In addition, paragraph C. in the existing rules has been redesignated as paragraph B., and changed as proposed in order to require contracts to contain the language required by Part VI.C.1. of § 1710.105. Paragraph D. in the present regulations has been retained and redesignated as paragraph C. as proposed, with one change, which raises from 10 to 15 days within which consolidation filings shall be made after approved and made effective under state laws.

PART 1715—ADVERTISING, SALES PRACTICES, POSTING OF NOTICES OF SUSPENSION

This part appeared in the proposals as Part 1730 but has been redesignated as Part 1715 for reasons of continuity. The proposed advertising regulations were commented upon to the same extent as Part XIV. of the Statement of Record—Financial Statements. In addition to comments on the specific sections the proposed part as a whole was subjected to broad criticism which questioned on the statutory authority to issue such regulations. The statutory authority will be discussed first.

Section 1402(10) of the Act provides that an "offer includes any inducement, solicitation, or attempt to encourage a person to acquire a lot in a subdivision." There being no specified definition of advertising, that term must be considered to have its ordinary and common meaning, which OILSR believes to be a reasonably widespread dissemination of any inducement, solicitation or attempt to encourage a person to acquire a lot in a subdivision, through the use of the mails, the mass media, or otherwise.

Section 1415(a) of the Act also makes it clear that the Secretary is empowered to restrain and enjoin any act or practice which constitutes or will constitute a violation of the Act. Accordingly, it clearly follows that the Secretary may exercise his power to prevent or correct violations of sec. 1404(a) of the Act. This section, among other things, makes unlawful acts or practices which constitute a "device, scheme, or artifice to defraud," which constitute "material misrepresentation[s] with respect to any information included in the Statement of Record or the Property Report *or with respect to any other information* pertinent to the lot or the subdivision and upon which the purchaser relies" or "which operate or would operate as a fraud or deceit upon a purchaser." Section 1419 of the Act authorizes the Secretary to, among other things, make such rules and regulations as are necessary or appropriate to the exercise, functions and powers conferred upon him elsewhere in this title. The regulations in Part 1715 are promulgated as necessary and appropriate steps by the Secretary to inform developers of the types of advertising which would constitute "material misrepresentation" and upon which OILSR may act pursuant to sec. 1404(a) of the Act and § 1715.5 of these regulations. This part does not propose a substantive regulation of advertising but seeks to refine and define what it believes to be misrepresentations in advertising which would be violative of the Act.

The legislative history of the Act was cited in some comments as not authorizing regulation of advertising is intended. Further, as mentioned in the discussion of condominiums, there is scant legislative history behind the operative statute, and the legislative history of this and predecessor bills, is not persuasive that the Secretary has no authority whatsoever concerning advertising. Former SEC Chairman Cohen testified that the definition of "offer" includes an advertisement. More significantly, however, he suggested that where there is specific rulemaking authority to define fraudulent and deceptive practices the intention is to authorize advertising controls which themselves would have the force of law. What OILSR has proposed are guidelines which will alert developers to that type of advertising OILSR will consider as triggering the authority of the Secretary to seek injunctions or restraining orders.

Another general comment that was submitted argued that Part 1715 is unnecessary for on-site purchasers. However, it has been OILSR's experience from the outset of the Act that a purchaser's presence on-site does not in itself afford him adequate information and protection in making a decision to purchase or not to purchase a lot.

In response to comments that the disclaimer proposed in § 1715.10 was too long and would therefore result in additional unwarranted expenses, the length of the disclaimer in final form has been reduced.

In addition to the general arguments referred to above, comments regarding § 1715.15 included statements that the proposed guidelines were "too vague" and at the same time "too detailed," that there was "no foundation" for the proposals, that the proposals were an "invasion of the freedom of expression" and that they were "impracticable in their application." The series of public hearings held by OILSR during 1972 amply demonstrated the foundation for the guidelines proposed in Part 1715, and

transcripts of these hearings are available as evidence thereof.

Upon reconsideration of the proposals in light of the comments received, proposed guidelines (n), (bb), (dd), (nn) and (oo) are deleted.

Section 1715.15(a) is changed from "All advertising must be consistent with the information contained in the Property Report" to "Advertising must not be inconsistent * * *." and has been consolidated with guideline (1).

Section 1715.15(h), as proposed, is deleted as redundant.

Section 1715.15(k), proposed as (m), is amended by the substitution of the words "specific road mileage" for "actual" mileage.

Section 1715.15(m), proposed as (p), is amended by excepting utility easements from any deductible measure of the size of the lot offered.

Section 1715.15(n), proposed as (q), is amended to substitute "when the improvements will be completed" for "that development will be completed" since the use of the word "development" was criticized as being overly broad and is also deleted in proposed guideline (bb).

Section 1715.15(q), proposed as (t), is amended in response to a comment to include a new sentence stating that all streets and roads shown on subdivision maps will be presumed to be at least of all-weather graded gravel quality and will be presumed to be traversable by conventionable automobile under all normal weather conditions.

Section 1715.15(s), proposed as (v), is amended to include as permissible advertisement of a road easement if it has been dedicated to the appropriate property owners' association as well as to the public or individual property owners.

Section 1715.15(aa), proposed as (ff), is amended to include the availability of water in the future when referring to homesites, to accommodate situations which involve homesites but not immediate building.

Additionally, there have been some editorial changes, primarily a reordering of paragraphs for the purposes of continuity and grammatical changes to improve sentence structure and syntax.

With respect to Sales Practices, § 1715.25, the same basic comments concerning the guidelines in § 1715.15 were received and were treated similarly by OILSR.

The only comment concerning § 1715.50, Posting of notices of suspension, was that this requirement should apply only in the case of a suspension that is a final determination. That is exactly what is intended by this provision, and specific reference is made to a suspension order issued under § 1710.45(b). This does not apply to a notice of suspension issued pursuant to § 1710.45(a).

Comments were received asking that sufficient lead time be allowed for Part 1715 to take effect. Adequate time has been provided for all parts of these regulations. The effective date is December 1, 1973.

PART 1720—FORMAL PROCEDURES AND RULES OF PRACTICE

Very few substantive changes have been made in the rules of practice.

Reference in § 1720.130 of suspensions based on deficient amendments to statements of record under § 1710.45(b)(3) has been deleted, which, with the addition of a new § 1720.131, will have the effect of conforming the procedural requirements for such suspensions to those for a suspension of amendment issued pursuant to § 1710.45(a).

A new § 1720.134 has been added which establishes a presumption of a request for a hearing in certain situations. Sections 1720.140 and 1720.155 have been revised to increase from 10 to 15 days the time within which an answer must be filed after service of notice of proceedings or suspensions, or denials of motions for more definite statement. The number of copies of answers required to be filed has been reduced from six to three in § 1720.140, and in § 1720.155. Section 1720.160(c) has been amended by including failure to appear at a scheduled hearing as a justification for issuance of an order under § 1710.45(b)(1).

Section 1720.230 has been amended by allowing oral motions to be made during the course of hearings, and § 1720.235 has been amended to increase from five to seven days within which parties make written response to motions of the opposition.

Finally, numerous sections have been amended by redesignating the "Hearing Examiner" as the "Administrative Law Judge".

EFFECTIVE DATE

The effective date is December 1, 1973. All initial requests, filings, consolidations, amendments and other actions made thereafter shall be made pursuant to these regulations. The statements of record, consolidations and amendments filed prior to December 1, 1973, will be examined on the basis of the current regulations although the developer may request that they be examined pursuant to the regulations effective December 1, 1973. Amendments filed after December 1, 1973, shall contain all of the changes necessary to bring the entire registration into compliance with the new regulations, except for the items specifically excepted in the Effective date provision hereof. These exceptions (dealing with Ownership Interests, Maps and Title Evidence) are allowed because the changes which will have occurred as a result of a normal land sales program would, in OILSR's opinion, otherwise requirement documentation that would be unduly burdensome or impractical for a developer to obtain.

This effective date allows a lead time of approximately 90 days, within which developers may evaluate or prepare their advertising under the new guidelines, take the steps necessary to prepare any anticipated amendments or other actions in accordance with these regulations, or to otherwise familiarize themselves with Chapter IX, as amended.

Accordingly, Chapter IX of Title 24, CFR, is amended to read as follows:

PART 1700—INTRODUCTION

Subpart A—Authority and Organization

Subpart B—Delegations of Basic Authority and Functions

AUTHORITY: The provisions of this Part 1700 issued under sec. 1419, 82 Stat. 598; 15 U.S.C. 1718.

Subpart A—Authority and Organization

§ 1700.1 Scope of authority and purpose.

A land developer is required by the Interstate Land Sales Full Disclosure Act, Title XIV of Public Law 90-448, 82 Stat. 590, 15 U.S.C. 1701, enacted on August 1, 1968 (hereafter in this part referred to as the Act) to make full disclosure in the sale or lease of certain undeveloped, subdivided land. The Act makes it unlawful (except with respect to certain exempted transactions) for any developer to sell or lease, by use of the mail or by any means in interstate commerce, any such land offered as part of a common promotional plan unless the land is registered with the Secretary of Housing and Urban Development and a printed property report is furnished to the purchaser or lessee in advance of the signing of an agreement for sale or lease.

§ 1700.5 Authority of Secretary.

Section 1416(a) of the Act vests authority and responsibility for its administration in the Secretary of Housing and Urban Development (hereafter in this part referred to as the Secretary), and authorizes the Secretary to delegate any of his functions, duties and powers thereunder to employees of the Department of Housing and Urban Development.

§ 1700.10 Delegation of authority.

(a) The Secretary has delegated to the Interstate Land Sales Administrator and the Deputy Administrator all of the authority to exercise the power and authority vested in him under the Act except the authority to:

(1) Conduct hearings in accordance with 5 U.S.C. 556 and 557.

(2) Issue orders or determinations after such hearings.

(3) Issue rules and regulations under section 1416(a) of the Interstate Land Sales Full Disclosure Act 15 U.S.C. 1701-1720 title XIV of the Housing and Urban Development Act of 1963) prescribing

rights of appeal from the decisions of hearing examiners.

(4) Transmit evidence of apparent violations of the Act to the Attorney General of the United States for the institution of any appropriate criminal proceedings under section 1415(a) of the Act.

(5) Sue and be sued.

(b) The Secretary has further authorized the Administrator to redelegate any of the delegated authority to employees of the Department.

§ 1700.15 Establishment of Office.

There is established, as an organizational unit of the Department of Housing and Urban Development, the Office of Interstate Land Sales Registration.

§ 1700.20 Administrator.

The Office of Interstate Land Sales Registration is headed by the Interstate Land Sales Administrator who shall be designated by the Secretary.

§ 1700.25 Principal divisions.

The following Divisions have been established within the Office of Interstate Land Sales Registration:

(a) Examination Division.

(b) Administrative Proceedings Division.

§ 1700.30 Public information.

(a) *In general.*—The identifiable records of the Office of Interstate Land Sales Registration are subject to the provisions of 5 U.S.C. 552, as implemented by Part 15—Public Information, Subtitle A, of this title.

(b) *Availability of information and records.*—Information concerning land sales registrations and copies of statements of record may be obtained from the following address:

Office of Interstate Land Sales Registration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20411.

In addition, statements of record may be reviewed at such address on any business day from 8:45 a.m. to 5:15 p.m.

(c) *Nonapplicability of exemptions authorized by 5 U.S.C. 552.*—Section 1405(d) of the Act specifically provides that information contained in or filed with any statement of record shall be made available to the public. The exemptions from public disclosure authorized by 5 U.S.C. 552, as set forth in § 15.21 of this title, are not applicable to information contained in or filed with a statement of record.

(d) *Duplication fee—property report.*—Notwithstanding the provisions of § 15.14 *Schedule of Fees* of this title, copies of a Property Report on file with the Office of Interstate Land Sales Registration will be provided upon request for a fixed fee of $2.50 per copy regardless of the number of pages duplicated.

Subpart B—Delegations of Basic Authority and Functions

§ 1700.80 Director of the Examination Division, Office of Interstate Land Sales Registration, and Deputy.

To the position of Director of the Examination Division, Office of Interstate Land Sales Registration, and under his supervision to the position of Deputy Director there are delegated and assigned the following authorities and responsibilities.

(a) To receive and examine all statements of record and property reports filed under the provisions of the Interstate Land Sales Full Disclosure Act and all amendments and corrections to such statements.

(b) To determine the adequacy of disclosure of statements of record and property reports and amendments thereto and to effect corrections, additions, and deletions in such statements and reports deemed necessary to achieve the purposes of the Interstate Land Sales Full Disclosure Act.

(c) To find effective or to recommend to the Administrator that he declare not effective statements of record filed under the Interstate Land Sales Full Disclosure Act and to prepare and present evidence in connection with hearings and other administrative proceedings relative to statements of record declared not effective.

§ 1700.85 Director of the Administrative Proceedings Division, Office of Interstate Land Sales Registration, and Deputy.

To the position of Director of the Administrative Proceedings Division, Office of Interstate Land Sales Registration, and under his supervision to the position of Deputy Director, there are delegated and assigned the following authorities and responsibilities:

(a) To receive, examine, and make determinations with respect to complaints arising from the alleged failure of a developer subject to the Interstate Land Sales Full Disclosure Act to comply with the requirements of such Act and regulations issued thereunder and to negotiate resolutions of such complaints and compliance by such developers.

(b) To recommend actions by the Administrator to achieve compliance by developers deemed subject to the Act who have not complied with any or all of the requirements of the act and regulations issued thereunder.

(c) To conduct, on his own initiative, or in response to information received, reviews to determine the existence of such noncompliance and secure compliance with the requirements of the Interstate Land Sales Full Disclosure Act and regulations thereunder.

(d) To recommend suspension by the Administrator of statements of record on a determination of noncompliance with the requirements of the Interstate Land Sales Full Disclosure Act and regulations thereunder.

(e) To recommend action to secure permanent or temporary injunctions or restraining orders to prevent acts or practices in violation of the provisions of the Interstate Land Sales Full Disclosure Act and regulations thereunder and to require compliance therewith.

(f) To prepare and present evidence in connection with hearings or other administrative proceedings or injunctions or restraining orders in connection with suspensions of statements of record or other action in connection with noncompliance under the Interstate Land Sales Full Disclosure Act and regulations thereunder.

§ 1700.90 Acting Administrator.

The Deputy Administrator and the Assistant Deputy Administrator in the order named, are designated by the Administrator to act in his place and stead in the event of his absence or inability to act, having the title of "Acting Administrator" with the powers, duties, and rights delegated by the Secretary's Delegation of Authority published in the FEDERAL REGISTER on March 9, 1972, 37 F.R. 5071.

§ 1700.95 Assistant Deputy Administrator.

The Assistant Deputy Administrator is designated by the Administrator to perform routine matters concurrently with the Deputy Administrator.

§ 1700.100 Separability of provisions.

If any clause, sentence, paragraph, or part of these regulations shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined by its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

PART 1710—LAND REGISTRATION

Subpart A—General Requirements

Subpart B—Reporting Requirements

AUTHORITY: The provisions of this Part 1710 are issued under section 1419 of the Interstate Land Sales Full Disclosure Act, 82 Stat. 598; 15 U.S.C. 1718.

Subpart A—General Requirements

§ 1710.1 Definitions.

As used in this chapter:

(a) "Act" means the Interstate Land Sales Full Disclosure Act, 82 Stat. 590, 15 U.S.C. 1701, which became effective in its original form on April 28, 1969.

(b) "Blanket encumbrance" means a trust deed, mortgage, judgment, or any other lien or encumbrance, including an option or contract to sell, or a trust agreement, affecting a subdivision or affecting more than one lot offered within a subdivision, except that such term shall not include any lien or other encumbrance arising as the result of the imposition of any tax assessments by any public authority.

(c) "Date of filing" means the date a Statement of Record, amendment or consolidation, accompanied by the applicable fee, is received by the Secretary.

(d) "Developer" means any person who, directly or indirectly, sells or leases, or offers to sell or lease, or advertises for sale or lease any lots in a subdivision.

(e) "Exemption advisory opinion" means the formal written decision of the Secretary, pursuant to § 1710.10 or § 1710.13, stating whether or not a particular method of sale is exempt from the requirements of this part. Such decision shall be issued on the basis of an examination of the information submitted and will not be considered binding if such information is incomplete or inaccurate in any material respect.

(f) "Exemption order" means the formal written decision of the Secretary, pursuant to § 1710.14, to exempt any subdivision or any lots in a subdivision from the requirements of this part.

(g) "Interstate commerce" means trade or commerce among the several States.

(h) "Lot" means any portion, piece, division, unit, or undivided interest in land if such interest includes the right to the exclusive use of a specific portion of the land.

(i) "Offer" means any inducement, solicitation, or attempt to encourage a person to acquire a lot in a subdivision.

(j) "OILSR" means the Office of Interstate Land Sales Registration.

(k) "Person" means an individual, or an unincorporated organization, partnership, association, corporation, trust, or estate.

(l) "Purchaser" means an actual or prospective purchaser or lessee of a lot in a subdivision.

(m) "Rules and regulations" refer to all rules and regulations adopted pursuant to the Act, including the general requirements published in this part.

(n) "Sale" means any obligation or arrangement for consideration to purchase or lease a lot directly or indirectly. The terms "sale" or "seller" include in their meanings the terms "lease" and "lessor".

(o) "Secretary" means the Secretary of Housing and Urban Development or his duly authorized representatives.

(p) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(q) "Subdivision" means any land which is divided or proposed to be divided into 50 or more lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan; and, where subdivided land is offered for sale or lease by a single developer or a group of developers acting in concert and where such land is contiguous or is known, designated, or advertised as a common unit or by a comman name, such land shall be presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan.

§ 1710.2 Official address.

The official address of the Secretary for delivery of all mail, telegrams, information, filings, registration, and other material required by or relating to the Act or this chapter is:

Office of Interstate Land Sales Registration, HUD Building, 451 Seventh Street SW., Washington, DC 20410.

§ 1710.5 General applicability.

Except in the case of an exempt transaction, a developer may not sell or lease lots in a subdivision, making use of any means or instruments of transportation or communication in interstate commerce or of the mails, unless a Statement of Record is in effect in accordance with the provisions of this part; and the developer furnishes each purchaser with a printed Property Report, meeting the requirements of the provisions of this part, in advance of the signing of any contract or agreement for sale or lease by the purchaser. As used in this part, "lots" shall include lots located in a foreign country.

§ 1710.10 Statutory exemptions.

The requirements of this part shall not apply to:

(a) The sale or lease of real estate not pursuant to a common promotional plan to offer or sell 50 or more lots in a subdivision.

(b) The sale or lease of lots in a subdivision, all of which are 5 acres or more in size.

(c) The sale or lease of any lots on which there is a residential, commercial, or industrial building, or to the sale or lease of land under a contract obligating the seller to erect such a building thereon within a period of 2 years.

(d) The sale or lease of real estate under or pursuant to court order.

(e) The sale of evidences of indebtedness secured by a mortgage or deed of trust on real estate.

(f) The sale of securities issued by a real estate investment trust.

(g) The sale or lease of real estate by any government or government agency.

(h) The sale or lease of cemetery lots.

(i) The sale or lease of lots to any person who acquires such lots for the purpose of engaging in the business of constructing residential, commercial or industrial buildings or for the purpose of resale or lease of such lots to persons engaged in such business.

The foregoing exemptions are available where the particular factual circumstances of the sale or lease meet the express requirements of the exemption provision. No formal written decision is required, but an exemption advisory opinion pursuant to § 1710.15 may be obtained if desired.

§ 1710.11 Statutory exemptions—determination required.

(a) The sale or lease of real estate shall be exempt from the requirements of this part if all of the following criteria are met:

(1) At the time of sale or lease the real estate is free and clear of all liens, encumbrances, and adverse claims.

(2) Each and every purchaser or his or her spouse has made a personal on-the-lot inspection of the real estate which he purchased or leased, prior to the signing of a contract to purchase or lease, and the developer submits his written affirmation to that effect, in the format set forth in § 1710.103.

(3) The developer has filed with the Secretary a Claim of Exemption in the form set forth in § 1710.101.

(4) The developer has obtained the Secretary's approval of the form and content of a Statement of Reservations, Restrictions, Taxes, and Assessments, prepared in accordance with the instructions in § 1710.102.

(5) Prior to the time a purchaser signs a contract for sale or lease the developer shall have furnished to such purchaser the Statement of Reservations, Restrictions, Taxes, and Assessments and shall have obtained in writing the purchaser's acknowledgment of receipt of such statement.

(b) (1) Within 31 days after the expiration of the calendar year in which the sale or lease is made, the developer shall file with the Secretary a copy of each acknowledged statement, together with the developer's affirmation required by paragraph (a) (2) of this section.

(2) If the developer has relied upon the provisions of paragraph (c) (1) of this section to establish the time of sale, he shall file with each acknowledged statement and affirmation a copy of the applicable contract of sale.

(3) All documents required to be submitted by this section shall be bound in alphabetical order and indexed by purchaser's surname. Each bound volume shall contain only such documents as are

applicable to a single subdivision and shall be identified on the outer cover by the name and location of the subdivision and the number assigned by OILSR to such subdivision. Upon demand by the Secretary, made at any time during the calendar year, the developer shall, without delay, file copies of such acknowledged statements, affirmations, and applicable contracts as the Secretary may specify.

(c) For the purposes of this Section:

(1) "Time of sale or lease" means the date the sales contract or lease is signed by the purchaser except that the "time of sale" shall be deemed to be the effective date of the conveyance if both of the following conditions are met:

(i) The contract of sale requires delivery of a deed to the purchaser within 120 days following the signing of the sales contract.

(ii) Any earnest money deposit, or other payment on account of the purchase price, made by the purchaser prior to the effective date of the conveyance is placed in an escrow account fully protecting the interest of the purchaser. Such account shall be with an institution or organization which has trust powers or in an established bank, title insurance, or abstract company, or an escrow company which is doing business in the jurisdiction in which the property is located.

(2) "Liens, encumbrances, and adverse claims" do not include the following:

(i) Property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed.

(ii) Taxes and assessments imposed by a State, by any other public body having authority to assess and tax property or by a property owners' association which under applicable State or local law constitute liens before they are due and payable.

(iii) Benefical property restrictions which would be enforceable by other lot owners or lessees in the subdivision.

§ 1710.12 Statutory exemptions—when inapplicable.

The exemptions set forth under §§ 1710.10 and 1710.11 of this part shall not be applicable when the method of sale, lease, or other disposition of land or an interest in land is adopted for the purpose of evasion of the Act.

§ 1710.13 Regulatory exemptions.

The requirements of this part shall not apply to:

(a) The sale or lease of lots, each of which will be sold for less than $100, including closing costs, provided that the purchaser will not be required to purchase more than one lot.

(b) The lease of lots for a term not to exceed 5 years provided the terms of the lease do not obligate the lessee to renew.

The foregoing exemptions are available where the particular factual circumstances of the sale or lease meet the express requirements of the exemption provision. No formal written decision is required, but an exemption advisory opinion pursuant to § 1710.15 may be obtained if desired.

§ 1710.14 Regulatory exemptions—exemption order required—limited offering.

(a) The Secretary may exempt from the provisions of this part any subdivision or any lots in a subdivision which otherwise would be covered by the provisions of this part, by issuing an exemption order in writing to the effect that the enforcement of this part with respect to such subdivision or lots is not necessary in the public interest and for the protection of purchasers by reason of the small amount involved or the limited character of the public offering, if he determines that:

(1) The request for the exemption order is limited to a single transaction; or

(2) All of the following criteria are met:

(i) There are less than 300 lots in the subdivision.

(ii) The subdivision is located entirely within one State.

(iii) The offering of lots in the subdivision is entirely or almost entirely limited to the State in which the subdivision is located.

(iv) The use of all advertising and other promotional means, the distribution of which is within control of the developer or his agents, is confined to the State in which the subdivision is located. All use of billboards and similar signs, telephonic methods of communication and direct mail shall be presumed to be within the control of the developer or his agents.

(v) No more than 5 percent of the sales in the subdivision in any one year will be made to nonresidents of the State in which the subdivision is located.

(b) To obtain an order by the Secretary under paragraph (a) of this section, the developer shall:

(1) File a partial Statement of Record—request for exemption in accordance with § 1710.125. The partial Statement of Record shall not operate as registration under the Act.

(2) Pay the filing fee required by § 1710.35(g).

(3) Submit a comprehensive statement.

(i) Identifying the lots which are the subject of the exemption request and setting forth the reasons supporting such request. The developer shall enumerate and identify prior sales, if any.

(ii) Describing the advertising and promotional media and methods used or to be used in connection with the sale or lease or offers to sell or lease lots in the subdivision. The statement shall describe the area and States in which newspapers and periodicals are distributed, or in which broadcasts of radio or television stations are received, or to which mailings or other promotional materials are directed. If the request is for the exemption of a single transaction, the statement shall include the details of that transaction only.

(iii) Stating whether any of the holders of an ownership interest in the land, or the developer or any principals in the holder or developer, are directly or indirectly involved in any other subdivision for which they have filed a Statement of Record with or have requested an exemption order, determination or advisory opinion from the Office of Interstate Land Sales Registration. If so, the statement shall identify the subdivision by name, location and OILSR number or numbers. If any of the abovementioned persons are involved in any other subdivision for which they plan to file a Statement of Record or for which they plan to request an exemption order, determination or advisory opinion, the statement shall identify such subdivision by name and location and shall state the proposed number of lots in that subdivision.

(4) Submit such additional information as the Secretary may require in order to make his decision.

(c) Any exemption order issued pursuant to the provisions of this section shall be limited to the facts, affirmations, and methods of operation as represented in the request and any material change in or deviation therefrom shall automatically terminate the effect of such exemption order.

§ 1710.15 Exemption advisory opinions.

(a) *In general.* A developer of a subdivision may obtain an exemption advisory opinion from the Secretary stating whether or not, in the opinion of the Secretary, a particular method of sale or lease is exempt from the requirements of this part. An exemption advisory opinion is issued solely in connection with those methods of sale or lease exempted by §§ 1710.10 and 1710.13.

(b) *Partial Statement of Record.* Any opinion request shall be accompanied by a partial Statement of Record as prescribed in § 1710.125. The partial Statement of Record shall not operate as registration under the Act.

(c) *Supporting statement and fees.* Any opinion request shall be accompanied by the required fee, set forth in § 1710.35(g), and a comprehensive statement of facts and applicable law under which the developer believes the method of disposition to be exempt. Such statement shall:

(1) Describe the advertising and promotional media and methods used or to be used in connection with the sale or lease or offers to sell or lease lots in the subdivision.

(2) Describe the area and States in which newspapers and periodicals are distributed, or in which broadcast of radio or television stations are received, or to which mailings or other promotional materials are directed.

(3) State whether any of the holders of an ownership interest in the land, or the developer or any principals in the holder or developer, are directly or indirectly involved in any other subdivision for which they have filed a Statement of Record with or have requested an exemption order, determination or advisory

opinion from the Office of Interstate Land Sales Registration. If so, the statement shall identify the subdivision by name, location, and OILSR number or numbers. If any of the above-mentioned persons are involved in any other subdivision for which they plan to file a Statement of Record or for which they plan to request an exemption order, determination or advisory opinion, the statement shall identify such subdivision by name and location and shall state the proposed number of lots in that subdivision.

§ 1710.17 Concurrent submission—request for exemption/Statement of Record.

A request for an exemption order pursuant to § 1710.14 or for an exemption advisory opinion pursuant to § 1710.15 may be accompanied by the submission of a complete Statement of Record filed in accordance with the procedures described in paragraphs (a) and (b) of this section.

(a) A developer who wishes to begin to offer or to sell lots in a subdivision may submit in connection with a request for an exemption order or for an exemption advisory opinion a complete Statement of Record (§ 1710.20). Such request shall not affect the date upon which the Statement of Record shall become effective.

(b) If a Statement of Record has become effective prior to the issuance of an exemption order or of an exemption advisory opinion of the Secretary to the effect that the method of disposition is exempt, the developer shall elect within 30 days of the date of such order or opinion whether he intends to rely upon such order or opinion or intends for the Statement of Record to remain in effect. Unless the developer informs the Secretary to the contrary, the Statement of Record shall be deemed ineffective and permanently withdrawn, and it will be presumed that the developer intends to rely upon the order or opinion of the Secretary. Thereafter, the developer shall not represent to a purchaser that:

(1) The subdivision has been registered with the Secretary,

(2) The Statement of Record is in effect, or

(3) The Secretary has accepted any Property Report or similar information given to a purchaser.

If the developer does not intend to rely on the exemption order or on the exemption advisory opinion and so notifies the Secretary of his election within 30 days of the date of such order or opinion, he shall not thereafter represent to a purchaser that his method of sale, lease, or other disposition is exempt from the Act.

§ 1710.18 No-Action Letters.

Whenever the Secretary determines on the basis of the facts presented that no affirmative action is necessary to protect the public interest or prospective purchasers, a letter stating that no action will be taken by the Secretary may be issued. Any letter by the Secretary that action shall not be taken shall not bind the Secretary with regard to his future actions relating to such matter unless the Secretary shall specifically set forth in writing his determination to be so bound and the extent and nature thereof. Any such No-Action Letter by the Secretary shall not affect any right which any purchaser may have under the Act.

§ 1710.20 Statement of Record and Property Report—form and filing.

The requirements for registering a subdivision, by filing a Statement of Record and a Property Report with the Secretary and obtaining the Secretary's determination of a date when such filing becomes effective, are as follows:

(a) *Filing.*—A Statement of Record and a Property Report relating to a subdivision shall be filed with the Secretary by personal delivery or by certified mail, return receipt requested, addressed as shown in § 1710.2.

(b) *Form of Statement of Record.*—The Statement of Record shall be filed in the form, and shall be supported by the documentation, required by § 1710.105. The Statement of Record shall also include such other information as the Secretary may require as being reasonably necessary or appropriate for the protection of purchasers.

(c) *Form of Property Report.*—The Property Report shall be in the form set forth in § 1710.110.

(d) *State filings.*—Instead of the forms required by paragraphs (b) and (c) of this section, a Statement of Record and Property Report may be in the form required by State authorities if filed in accordance with the provisions of §§ 1710.25, 1710.115, and 1710.120.

(e) *Effective date—Property Report.*—The Property Report shall be considered to be a part of the Statement of Record for the purpose of determining the effective date and the suspension of the effective date thereof.

§ 1710.21 Statement of Record, consolidations, amendments—effective date.

(a) *Original filing and amendment thereto—effective date.*—The effective date of a Statement of Record or any amendment thereto shall be the 30th day after the date of filing unless the Secretary shall notify the developer in writing prior to such 30th day either that:

(1) The effective date has been suspended in accordance with § 1710.45(a), or

(2) An earlier effective date has been determined by the Secretary.

(b) *Consolidated filing—effective date.*—The effective date of a consolidated statement of record shall be governed by the provisions of paragraph (a) of this section.

(c) *Amendments—effective date.*—Amended Statements of Record shall become effective as follows: If a Statement of Record or any amendment thereto has been filed but is not yet effective, the effective date of the Statement or amendment, as amended, shall be the 30th day after the filing of the latest amendatory material unless the Secretary shall notify the developer in writing prior to such 30th day either that:

(1) The effective date has been suspended in accordance with § 1710.45(a), or

(2) An earlier effective date has been determined by the Secretary.

§ 1710.22 Consolidated Statements of Record.

If in connection with lots previously offered for sale and covered by an effective Statement of Record, the developer intends to offer additional lots as part of a common promotional plan, either a new or a consolidated Statement of Record must be filed. If no additional land is offered for sale, but simply additional lots through replatting the same land, then the filing may be amended; but in such instance the developer must pay for the amendment as per fee schedule (for consolidations) under § 1710.35 (c) or (e). The fee shall be based on the additional lots to be offered for sale as a result of the replatting of the land. The developer shall answer specifically each question in the Statement of Record and submit a new Property Report. The developer may not incorporate by reference answers to questions or supporting documentation in the previous filing, except that supporting documentation may be incorporated by reference in those instances where it is applicable specifically to both the original filing and to the additional lots to be offered. In all other respects the consolidated Statement of Record shall conform to the format requirements of an initial Statement of Record filed in accordance with these regulations.

§ 1710.23 Amendments—Statement of Record and Property Report—form and filing.

(a) An amendment to an effective Statement of Record or to a Property Report shall be filed with the Secretary if any material change occurs in any representation of fact made in such statement or report. An amendment shall be filed within 15 days of the date on which the developer knows or should have known that there has been a material change. The OILSR number of the Statement of Record shall appear at the top of each page of the material submitted.

(b) An amendment to a Statement of Record or Property Report shall incorporate by reference the prior Statement of Record or Property Report except for any material change which may have occurred. A material change shall be specifically described and shall be supported by such documentation as would be required in connection with an initial filing. Any such amendments shall be accompanied by:

(1) A letter from the developer giving a narrative statement fully explaining the purpose and significance of the amendment and referring to that part and page of the Statement of Record which is being amended.

(2) All pages of the Statement of Record, which have been amended, retyped in the approved format reflecting the amendments.

(3) A copy of the Property Report, if amended.

§ 1710.25 State filings—in general.

(a) Material filed with and found acceptable by State authorities charged with the responsibility of regulating the sale of lots in subdivisions may be accepted for filing by the Secretary as meeting the requirements of this part if the Secretary determines such action to be appropriate and such determination is set forth in § 1710.26. Material filed with the Secretary under this section must be accompanied by a statement from the appropriate State authority which states substantially that:

The Department of Real Estate (or Real Estate Commission or Securities Commission) has reviewed the copies of documents attached to this filing and finds that these copies consist of _____ pages and that they are copies of all documents upon which the Public Report (or Public Offering Statement or Public Statement), which became effective on _____, 197__, is based.

(b) Where duplicate material has been accepted for filing by the Secretary under paragraph (a) of this section and such material, or any part thereof, for any reason, is no longer acceptable to the State authorities or effective in that State, the filing with the Secretary shall be ineffective unless amended pursuant to § 1710.27.

(c) The effective date of a State filing shall be determined in accordance with the provisions of §§ 1710.20 and 1710.21.

§ 1710.26 State filings—acceptable filings.

The Secretary has determined that material initially filed with and allowed to become effective by authorities in the several States listed below may be accepted pursuant to § 1710.25:

(a) California.

(b) Florida, except as to material filed with State authorities prior to enactment of section 478, Florida statutes, effective August 1, 1967.

(c) Hawaii, except as to material filed with State authorities prior to the enactment of Act 223, Session laws of Hawaii 1967.

(d) New York.

§ 1710.27 State filings—consolidations and amendments.

(a) *Procedures.*—Where materials filed with State authorities also has been filed with the Secretary pursuant to § 1710.25, and subsequent thereto, the State authorities approved amendments or a consolidation to such material, copies of amended or consolidated material, as approved, shall be filed with the Secretary. The OILSR number shall appear at the top of each page of the material submitted. Such a filing shall be made with the Secretary within 15 days after it becomes effective under the applicable State laws and shall include the following additional items:

(1) A letter or other document from the State authorities stating that the amendment or additional material has been allowed to become effective.

(2) A letter from the developer giving a narrative statement fully explaining the purpose and significance of the amendment or consolidation and referring to that part and page of the Statement of Record which is being amended.

(3) All pages of the Statement of Record, which have been amended, retyped in the approved format reflecting the amendments.

(4) A copy of the Property Report, if amended.

(5) The material filed with and found acceptable by the State authorities as a consolidation or an amendment must be accompanied by the statement required by § 1710.25.

(b) *Requirement for amendment.*—The Statement of Record and Property Report shall be amended within 15 days of the date on which the developer knows or should have known that there has been a material change.

(c) *Effective date—State filing.*—The effective date of a State filing consolidation or amendment shall be determined in accordance with the provisions of § 1710.21.

§ 1710.32 Use of Property Reports—misstatements or omissions prohibited; representation of HUD approval prohibited.

Nothing in this part shall be construed to authorize or aprove any use of a Property Report containing any untrue statement of a material fact or omitting to state a material fact required to be stated therein. Nor shall anything in this part be construed to authorize or permit any representation that the Property Report is prepared or approved by the Secretary, OILSR or the Department of Housing and Urban Development.

§ 1710.35 Payment of fees.

(a) *Method of payment.*—Fees shall be paid by certified check or cashier's check or postal money order. Such check or money order shall be payable to the Treasurer of the United States.

(b) *Initial filing.*—The fee, not to exceed $1,000, for the initial filing of a Statement of Record, shall be, as set forth in column 1 of paragraph (f) of this section, based on the number of lots in the offering.

(c) *Consolidated filing.*—The fee, not to exceed $1,000, for filing a consolidated Statement of Record, shall be, as set forth in column 2 of paragraph (f) of this section, based on the number of lots in addition to the number which were offered in the initial Statement of Record.

(d) *Initial State filing.*—The fee, not to exceed $1,000, for an initial filing of a duplicate of material filed with a State (§ 1710.25), shall be, as shown in column 3 of paragraph (f) of this section, based on the number of lots in the offering.

(e) *Consolidated State filing.*—The fee, not to exceed $1,000, for the filing of a duplicate of material filed with a State covering a number of lots in addition to the number contained in the initial offering approved by the State (§ 1710.27), shall be, as shown in column 4 of paragraph (f) of this section, based on the number of lots being added to the number in the initial offering. This paragraph applies only in those instances where the State has permitted the consolidation of the additional number of lots with those included in the initial offering.

(f) *Fee schedule.*—The following chart shall be used in computing fees required to be paid under paragraphs (b), (c), (d), and (e) of this section.

Number of lots	Fees column			
	1	2	3	4
1-50	$300	$250	$225	$125
51-100	350	300	250	150
101-150	400	350	275	175
151-200	450	400	300	200
201-250	500	450	325	225
251-300	550	500	350	250
301-350	600	550	375	275
351-400	650	600	400	300
401-450	700	650	425	325
451-500	750	700	450	350
501-550	800	750	475	375
551-600	850	800	500	400
601-650	900	850	525	425
651-700	950	900	550	450
701-750	1,000	950	575	475
751-800	1,000	1,000	600	500
801-850	1,000	1,000	625	525
851-900	1,000	1,000	650	550
901-950	1,000	1,000	675	575
951-1,000	1,000	1,000	700	600
1,001-1,050	1,000	1,000	725	625
1,051-1,100	1,000	1,000	750	650
1,101-1,150	1,000	1,000	775	675
1,151-1,200	1,000	1,000	800	700
1,201-1,250	1,000	1,000	825	725
1,251-1,300	1,000	1,000	850	750
1,301-1,350	1,000	1,000	875	775
1,351-1,400	1,000	1,000	900	800
1,401-1,450	1,000	1,000	925	825
1,451-1,500	1,000	1,000	950	850
1,501-1,550	1,000	1,000	975	875
1,551-1,600	1,000	1,000	1,000	900
1,601-1,650	1,000	1,000	1,000	925
1,651-1,700	1,000	1,000	1,000	950
1,701-1,750	1,000	1,000	1,000	975
1,751-or more	1,000	1,000	1,000	1,000

(g) *Exemption order or exemption advisory opinion.* The fee for an exemption order or exemption advisory opinion (§ 1710.14 or § 1710.15) shall be $100, which shall not be refundable and is to be collected as follows:

(1) When the developer files a concurrent submission—request for exemption/Statement of Record—pursuant to § 1710.17, the fee required by paragraphs (b) through (e) of this section shall be submitted. If the Secretary advises or orders that the offering is exempt under § 1710.10, § 1710.13, or § 1710.14 and the developer does not notify the Secretary within 30 days thereafter that he intends for the Statement of Record to remain in effect, the Secretary will refund the submitted fee except for $100. If the developer notifies the Secretary that he intends for the Statement of Record to remain in effect or if the request for exemption is denied the fee required by this paragraph will be retained.

(2) When the developer files a request for an exemption order or advisory opinion not accompanied by a complete Statement of Record, the fee of $100 shall

be submitted. If the Secretary finds that the filing of a complete Statement of Record is required, the fee of $100 shall be applied as a credit toward the fee required for the filing of the complete Statement of Record.

(h) *Amendments.*—A fee of $100 shall be charged for the filing of the second and subsequent preeffective amendments for any initial or consolidated filing, unless this requirement is waived by the Secretary. Waiver of this requirement must be in writing. No fee will be charged for the first preeffective amendment or any posteffective amendment.

§ 1710.45 Suspensions.

(a) *Suspension notice—prior to effective date.*—(1) A suspension notice with respect to a Statement of Record or an amendment may be issued to a developer by the Secretary within 30 days after the date of filing if prior to its effective date, the Secretary has reasonable grounds to believe that a Statement of Record is on its face incomplete or inaccurate in any material respect; or prior to its effective date, the Secretary has reasonable grounds to believe that an amendment is on its face incomplete or inaccurate in any material respect.

(2) Suspension notices issued pursuant to this subsection shall suspend the effective date of the statement or the amendment until 30 days, or such earlier date as the Secretary may determine, after the developer files such additional information as the Secretary shall require.

(3) A developer, upon receipt of a suspension notice may request a hearing within 15 days of receipt of such notice. Such hearing shall be held within 20 days of receipt of such request by the Secretary.

(4) Suspension notices issued pursuant to this section shall continue in effect until all deficiencies cited in the notice are corrected.

(b) *Suspension orders—subsequent to effective date.*—(1) A notice of proceedings to suspend an effective Statement of Record may be issued to a developer if the Secretary has reasonable grounds to believe that an effective Statement of Record includes an unture statement of a material fact, or omits a material fact required by the Act or the rules and regulations, or omits a material fact which is necessary to make the statements therein not misleading. The Secretary may, after notice, and after opportunity for a hearing requested within 15 days of receipt of such notice, issue an order suspending the Statement of Record. In the event that a suspension order is issued, such order shall remain in effect until the developer has amended the Statement of Record or otherwise complied with the requirements of the order. When the developer has complied with the requirements of the order, the Secretary shall so declare and thereupon the suspension order shall cease to be effective.

(2) If the Secretary undertakes an examination of a developer or his records to determine whether a suspension order should be issued, and the developer fails to cooperate with the Secretary or obstructs, or refuses to permit the Secretary to make such examination, the Secretary may issue an order suspending the Statement of Record. Such order shall remain in effect until the developer has complied with the requirements of the order. When the developer has complied with the requirements of the order, the Secretary shall so declare and thereupon the suspension order shall cease to be effective.

(3) Upon receipt of an amendment to an effective Statement of Record, the Secretary may issue an order suspending the Statement of Record until the amendment becomes effective if he has reasonable grounds to believe that such action is necessary or appropriate in the public interest or for the protection of purchasers.

(4) Suspension orders issued pursuant to this subsection shall operate to suspend the Statement of Record as of the date the order is either served on the developer or his registered agent or is delivered by certified or registered mail to the address of the developer or his authorized agent.

Subpart B—Reporting Requirements

§ 1710.101 Claim of exemption—format of affirmation.

A claim of exemption pursuant to § 1710.11 shall be made to the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, and shall be supported by an affirmation as follows:

CLAIM OF EXEMPTION

I hereby affirm on this _____ day of _____, 19__, as follows:

(1) I am the developer, or the duly authorized agent of the developer, of the subdivision known as _____, located at _____, in the State of _____, County of _____.

(2) Each and every purchaser or lessee of a lot to be covered by this exemption, or his or her spouse, prior to his signing a contract to purchase or lease will have:

(a) Made a personal on-the-lot inspection of the real estate which he purchases or leases; and

(b) Acknowledged, in writing, receipt of a statement furnished by the developer setting forth all reservations, restrictions, taxes, and assessments applicable to the lot to be purchased or leased whether or not such reservations, restrictions, taxes, or assessments are included within the term "liens, encumbrances, and adverse claims" as used in paragraph (7) below.

(3) This affirmation is accompanied by a Statement of Reservations, Restrictions, Taxes, and Assessments prepared in accordance with the provisions of 24 CFR 1710.102. The Secretary's approval of such statement will be obtained prior to its distribution and use.

(4) The Statement of Reservations, Restrictions, Taxes, and Assessments is complete and correct.

(5) The receipt of such statement will be acknowledged in writing, in duplicate, by the purchaser or lessee prior to the time of the signing of the contract.

(6) A copy of the acknowledged statement will be filed with the Secretary within 31 days after the expiration of the calendar year in which the sale or lease is made. Upon demand by the Secretary made at any time during the calendar year, the developer shall file such copies of such acknowledged statements as shall be specified by the Secretary.

(7) At the time of sale or lease, the lot will be free and clear of all liens, encumbrances, and adverse claims. The term "liens, encumbrances, and adverse claims" (as used in this paragraph) is not intended to include property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, nor to taxes and assessments imposed by a State, by any other public body having authority to assess and tax property or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable, nor to beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision.

(8) For the purpose of this claim of exemption, the undersigned agrees that the "time of sale or lease" shall be deemed to be the date the sales contract or lease is signed by the purchaser or lessee except that the "time of sale" shall be deemed to be the effective date of the conveyance or lease if both of the following requirements are met:

(a) The contract of sale requires delivery of a deed to the purchaser within 120 days following the signing of the sales contract.

(b) Any earnest money deposit or other payment on account of the purchase price made by the purchaser prior to the effective date of the conveyance will be placed in an escrow account, fully protecting the interests of the purchaser, in an institution or organization which has trust powers, or in an established bank, title insurance, or abstract company, or escrow company doing business in the jurisdiction in which the property is located.

_____
_____
(Title)

(If the affirmation is made by an agent of the developer of the subdivision, submit written authorization to act as agent.)

§ 1710.102 Statement of Reservations, Restrictions, Taxes, and Assessments—format and instructions.

A statement of reservations, restrictions, taxes, and assessments shall be prepared by the developer in accordance with the following format, instructions, and supporting documentation:

STATEMENT OF RESERVATIONS, RESTRICTIONS, TAXES, AND ASSESSMENTS

Employer's IRS Number_____
Developer_____
Owner_____
Name of developer_____
Address _____
Owner (if developer is other than owner) _____
Address _____
Name of subdivision_____
Location _____
Number of lots in subdivision_____
Number of acres in subdivision_____

1. *Reservations and restrictions.*

(The developer shall set forth, in descriptive and concise terms, a complete statement of all reservations and restrictions affecting the property within the above-named subdivision. Where reservations or restrictions are not applicable to all lots within a subdivision the statement shall identify the lots affected. State whether such reservations and restrictions are enforceable by other lot owners or lessees of lots in the subdivision.

Reference to instruments of record shall include a specific citation to the public record in which such instruments are recorded or filed by book, page, and place of record.)

2. *Taxes.*

(The developer shall set forth, in descriptive and concise terms, a complete statement listing all taxes and liens presently due and payable and those which constitute liens on the property before they become due and payable, together with the date such taxes will become due and payable. Itemize taxes, amounts and rates by lots. Where taxes, amounts or rates shown are not yet available for the current calendar year, those for the previous year should be shown with a statement that they are not for the current year and that the new taxes, amounts or rates may vary; and, if property has been rezoned or subdivided since the last taxing period, the estimated amount of changes for the current year should also be shown. Where the previous year's taxes were based other than on lots as presently subdivided, estimates should be shown and so identified.)

3. *Assessments.*

(The developer shall set forth in descriptive and concise terms a statement of all assessments which are made or may be made by State or local authorities or by a property owners' association or similar organization. The statement shall include any dues or fees paid in the last year or payable to a property owner's association. Itemize assessments, dues, fees, amounts and rates. State the authority under which the assessments, dues, and fees are imposed.)

WARNING: This subdivision is not registered with the Office of Interstate Land Sales Registration nor has that Office passed upon the accuracy or adequacy of this statement, nor does this statement serve as an endorsement or recommendation by that Office of the above offering.

The undersigned by his signature hereby acknowledges that he has received a Statement of Reservations, Restrictions, Taxes, and Assessments, on (identify subdivision and location) from (name of developer) located at (address) and that he has made a personal on-the-lot inspection of (at the time of delivery to the purchaser or lessee insert a legal description of the particular lot) which is the lot upon which the undersigned plans to execute a contract of sale or lease.

_____
(Date)

_____
(Signature of purchaser or lessee)

Supporting documentation.—In order to support the preceding statement, the developer shall submit the following documentation.

1. A plat of each subdivision identifying the unsold lots which are the subject of this claim of exemption. Each unsold lot shall be clearly delineated on the plat.

2. Evidence of title. This may be a title insurance policy, or an attorney's opinion, providing the attorney is experienced in the examination of titles and a member of the bar in the State in which the property is located.

3. Copy of the sales contract.

§ 1710.103 Affirmation—purchaser's on-the-lot inspection—format.

The affirmation required by § 1710.11 (a) (2) shall be submitted in the form set forth below and may be submitted as a separate document or as an attachment to the purchaser's acknowledgment of receipt of the Statement of Reservations, Restrictions, Taxes, and Assessments.

AFFIRMATION RE PURCHASER'S ON-THE-LOT INSPECTION

I hereby affirm on this _____ day of _____, 19__, that:

(1) I am the developer, or the duly authorized agent of the developer, of the subdivision known as _____, located at _____, in the State of _____, County of _____.

(2) On _____, 19__, Mr. and Mrs. _____, of _____ signed a contract for the purchase (lease) of lot _____ in section _____ of said subdivision.

(3) Prior to signing the contract Mr. and Mrs. (Mr. or Mrs.) _____ made a personal on-the-lot inspection of the lot described in paragraph (2) above.

_____
_____
(Title)

(If the affirmation is made by an agent, submit written authorization to act as agent. Only one authorization per agent need be submitted for a calendar year, though copies of such authorization may be submitted with each affirmation.)

§ 1710.105 Statement of Record—format and instructions.

The Statement of Record required by § 1710.20 shall be prepared in accordance with the format and instructions as follows:

Employer's IRS numbers: _____
Developer: _____
Owner: _____

STATEMENT OF RECORD

Name of subdivision: _____
Location: _____
Name of developer: _____
Developer's address: _____
Authorized agent: _____
Authorized agent's address: _____

PART I. ADMINISTRATIVE INFORMATION

A. Identification and filing information:
1. _____
2. _____
3. _____

B. General information:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Acres owned _____
Acres under option or other similar arrangement _____
Total _____
7. _____

C. Filings with U.S. Securities and Exchange Commission and States authorities:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

D. Supporting documentation:
1. _____
2. _____

PART II. DEVELOPERS AND HOLDERS OF OWNERSHIP INTERESTS IN LAND, VIOLATIONS, BANKRUPTCIES AND LITIGATION

A. Holder of ownership interest_____
Type of legal entity_____
Extent and type of interest_____

B. Holder of interest in developer_____
Type of legal entity_____
Extent and type of interest_____

C. Violations, bankruptcies and litigation:
1. _____
2. _____
3. _____

D. Supporting documentation:
1. _____
2. _____

PART III. IDENTITY OF INTEREST IN MORE THAN ONE FILING

A. Subdivision _____
Location _____
OILSR number _____
Date of filing _____

B. Parent company and subsidiaries:
Parent company:
Name: _____
Address: _____
Subdivision: _____
Location: _____
OILSR number: _____
Date of filing: _____
Subsidiaries:
Name: _____
Address: _____
Subdivision: _____
Location: _____
OILSR number: _____
Date of filing: _____

C. Suspension: _____

PART IV. TOPOGRAPHY, CLIMATE, NUISANCES, SUBDIVISION MAP, PERMITS AND LICENSES

A. Topography and physical characteristics:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

B. Climate and temperature:
1. _____
2. _____
3. _____

C. Nuisances:
1. _____
2. _____

D. Subdivision map, permits, and licenses:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

E. Supporting documentation:
1. _____
2. _____
3. _____

PART V. CONDITION OF TITLE, ENCUMBRANCES, DEED RESTRICTIONS, AND COVENANTS

A.1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
B. _____
C. _____
D. _____

PART VI. GENERAL TERMS AND CONDITIONS OF OFFER, PROPOSED RANGE OF SELLING PRICES OR RENTS

A. Summary of General Terms and Conditions of Offer:
1. _____
2. _____

3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

B. Proposed range of selling prices or rents _____

C. Supporting documentation:
1. _____
2. _____
3. _____

PART VII. ACCESS, NEARBY COMMUNITIES, ROAD SYSTEM WITHIN THE SUBDIVISION

A. Access—Nearby communities:
1. _____
2. _____
3. Name of community_____
Population _____
Distance over paved roads_____
Distance over unpaved roads_____
Total _____

B. Road system within the subdivision:
1. _____
2. _____
3. _____

C. Supporting documentation:
1. _____
2. _____
3. _____
4. _____
a. _____
b. _____

PART VIII. UTILITIES

A. Water:
1. _____
2. _____
a. _____
b. _____
c. _____
d. _____
3. _____
4. _____
5. _____
6. _____
7. Supporting documentation:
a. _____
b. _____
c. _____
d. _____
e. _____
f. _____
g. _____
h. _____
i. _____
ii. _____

B. Electricity:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Supporting documentation:
a. _____
b. _____
c. _____

C. Gas:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Supporting documentation:
a. _____
b. _____
c. _____

D. Telephone:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Supporting documentation:
a. _____
b. _____
c. _____

E. Sewage disposal:
1. _____
2. _____
a. _____
b. _____
c. _____
d. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. Supporting documentation:
a. _____
b. _____
c. _____
d. _____
e. _____
f. _____
i. _____
ii. _____

F. Drainage and flood control:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. Supporting documentation:
a. _____
b. _____
c. _____
d. _____
i. _____
ii. _____
iii. _____

G. Television:
1. _____
2. _____

PART IX. RECREATIONAL AND COMMON FACILITIES

A. _____
1. _____
2. _____
3. _____
4. _____
5. Supporting documentation:
a. _____
b. _____
i. _____
ii. _____
iii. _____
iv. _____

PART X. MUNICIPAL SERVICE

A. Fire protection:
1. _____
2. _____
3. _____

B. Police protection_____

C. Garbage and trash collection:
1. _____
2. _____
3. _____

D. Public schools:
1. Elementary school:
a. _____
b. _____
c. _____
d. _____
2. Junior high school:
a. _____
b. _____
c. _____
d. _____
3. High school:
a. _____
b. _____
c. _____
d. _____

E. Medical and dental facilities:
1. Hospital facilities:
a. _____
b. _____
c. _____
d. _____
e. _____
2. Physicians and dentists:
a. _____
b. _____

F. Public transportation:
1. _____
2. _____
3. _____
4. _____

G. U.S. Postal Service.
1. _____
2. _____
3. _____

PART XI. TAXES AND ASSESSMENTS—COMMON FACILITIES

A. _____
B. _____
C. _____
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

PART XII. OCCUPANCY STATUS

A. _____
B. _____
C. _____

PART XIII. SHOPPING FACILITIES

A. _____
B. _____

PART XIV. FINANCIAL STATEMENT

A. _____
B. _____

PART XV. AFFIRMATION

Affirmation

I hereby affirm that I am the Senior Executive Officer of the developer of the lots herein described or will be the Senior Executive Officer of the developer at the time lots are offered for sale or lease to the public, or that I am the agent authorized by the Senior Executive Officer of such developer to complete this statement (if agent, submit written authorization to act as agent):

That the statements contained in this Statement of Record and any supplement thereto, together with any documents submitted herewith, are full, true, complete, and correct;

That the developer is bound to carry out the promises and obligations set forth in this statement of record and property report or that I have clearly delineated the proposals for which the developer is not bound and stated who is or will be responsible, if anyone; and

That the fees accompanying this application are in the amount required by the rules and regulations of the Office of Interstate Land Sales Registration.

_____	_____
(Date)	(Signature)
_____	_____
(Corporate seal if applicable)	(Title)

WARNING: Section 1418 of the Housing and Urban Development Act of 1968 (82 Stat. 598, 15 U.S.C. 1717) provides: "Any person who willfully violates any of the provisions of this title or of the rules and regulations or any person who willfully, in a statement of record filed under, or in a property report issued pursuant to, this title, makes any untrue statement of a material fact * * *, shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both."

INSTRUCTIONS FOR COMPLETION OF STATEMENT OF RECORD

A. These instructions must be followed in completing the Statement of Record. All spaces in the specified format must be completed. The format must not be changed in any respect, except as follows:

1. Spaces provided in the format may be enlarged or extended for the purpose of providing a comprehensive explanation.

2. In addition to the information expressly required to be stated in the statement of record, there shall be added such further material information, documentation, and certifications, if any, as may be necessary in the public interest and for the protection of purchasers or necessary in order to make the statements in the light of the circumstances under which they are made, not misleading.

3. If a filing is to be consolidated pursuant to § 1710.22, the developer shall answer specifically each question in the Statement of Record and submit a new Property Report. The developer shall not incorporate by reference the answers to questions or supporting documentation in the previous filing, except that supporting documentation may be incorporated by reference in those instances where it is applicable specifically to both the original filing and to the additional lots to be offered. This shall be accomplished by placing after the applicable part or subpart in the format the OILSR number of the previous filing identifying the appropriate part, subpart, exhibit, and page number. In all other respects the consolidated Statement of Record shall conform to the format requirements of an initial Statement of Record filed under these regulations.

4. Amendments, including preeffective and posteffective amendments to the statement of record and property report, shall be prepared and filed in accordance with the procedure set forth in § 1710.23(b).

B. To facilitate proper filings, statements of record shall be bound and filed on good quality, unglazed, white paper, approximately 8½ by 13 inches in size, with a 2-inch margin at the top and a 1½-inch margin on each side. They shall be in black ink in standard elite or pica type. They may be printed, lithographed, mimeographed, or typewritten; but the standard size of elite or pica type must be used. Deeds, title policies, subdivision maps or plats, and other supporting documents may be on different size paper but should be folded to the 8½-by 13-inch size. A copy of the Property Report containing the text in its entirety as it is intended to be reproduced for delivery to prospective purchasers shall be attached to the Statement of Record. Statements of Record shall be properly signed and dated. The developer shall include the date of typing or preparation of the page in the lower right hand corner of each page of the statement of record.

C. In the upper right hand corner, the developer shall give his employer's IRS number as well as that of the owner of the subdivision, if the developer is not the owner. The name at the heading of the Statement of Record shall be the common promotional name used for the subdivision. The name and address of the authorized agent shall be the name and address of the party designated by the developer to receive correspondence and to receive service of process or notice of any action taken by OILSR. In all filings, including filings by foreign developers, the authorized agent shall be a resident of the United States.

D. The supporting documents required by the various parts of these instructions shall be attached as exhibits at the back of the Statement of Record. Each exhibit shall be identified by affixing a tab on the right side of the cover sheet of the exhibit and by identifying thereon the applicable part and subpart by Roman numeral, letter and Arabic number. The pages of each exhibit shall be numbered beginning with the number one for the first page in each exhibit and numbering the remaining pages in the exhibit sequentially. If, at a later time, additional data is furnished to be incorporated into, or to amend, an exhibit, the pages of the additional data shall be numbered beginning with the number following the last page number in the exhibit and following sequentially therefrom. If the information in an exhibit is applicable to more than one part, the developer may incorporate that information by reference to the appropriate exhibit and to the applicable page or pages within that exhibit.

E. If an item in the Statement of Record is supported by information in an exhibit, place the appropriate exhibit and page number in the right margin immediately adjacent to the item. Whenever the Statement of Record requires a summary or statement of terms or items, such summary or statement must be presented in a clear and concise manner.

F. Where the documentation required by the Statement of Record cannot be obtained, a letter stating the reasons therefor must be furnished by the developer, along with the best alternative assurance available. However, the documentation required by the following parts must be provided before the filing will be considered to constitute a statement of record:

Part I.D.1.,
Part II.D.1.,
Part IV.E.,
Part V.,
Part VI. 1. and 3., and
Part XIV.

The documentation required by the remainder of the parts of the statement of record must be provided if the developer includes statements, either in the statement of record or property report, evidencing an obligation or commitment on the part of a third party or action by a public official relating to the subdivision. Lacking such documentation appropriate disclosures must be made in both the statement of record and property report.

G. Proposals (as opposed to amenities already provided) may not be included in the statement of record unless the developer has clearly stated that they are merely proposals and disclosed any conditions of completion (such as successful sale of lots) and whether he will be obligated or who will be obligated, if anyone.

H. The following instructions correspond to the part and subpart letters and numbers set forth in the Statement of Record format.

PART I. ADMINISTRATIVE INFORMATION

A. Identification and filing information.

1. State whether the filing is an initial filing with the Office of Interstate Land Sales Registration on the subdivision or an additional offering of lots to be consolidated with a Statement of Record previously filed for lots offered under the same common promotional plan. If the filing is to be consolidated, identify the OILSR filing number assigned to the original Statement of Record.

2. Do you intend to make subsequent filings for additional lots within the subdivision?

3. Are you submitting documentation to support a request for an exemption?

B. General information.

1. Name the State, Commonwealth, territory, or possession of the United States or the country in which the subdivision is located.

2. Name the county or counties or other political subdivision or subdivisions within which the subdivision is located.

3. State the number of lots in this offering. Consolidated filings shall state the additional lots being offered and shall state the total number of lots included in previous filings on that subdivision. The Secretary must be able to reconcile the number stated in your answer to this item with the statements made in the title evidence, the lots delineated on the plat maps and the disclosure made on item 2. b. of the property report.

4. If more than one offering of lots in the subdivision has been made or will be made, state the number of lots to be offered in the entire subdivision. See instruction D.2 of this part.

5. State the number of acres included in this offering.

6. If more than one offering of lots in the subdivision has been made or will be made, state the number of acres owned, the number of acres under option or other similar arrangement for acquisition of title to the land and the total number of acres to be offered pursuant to the same common promotional plan.

7. State whether any lots have been sold in this subdivision since April 28, 1969, and prior to registering with this office. If they were sold pursuant to an exemption, identify the exemption provision and state whether an exemption advisory opinion, exemption order, or exemption determination was obtained with respect to those lot sales. State the OILSR number of the request for exemption, if any.

C. Filings with U.S. Securities and Exchange Commission and State authorities.

1. If a Statement of Record or similar instrument for the subdivision has been filed in any State or States, list the State or States.

2. If any of the States listed in answer to figure 1 above has not permitted the filing to become effective or has suspended the filing, give reasons cited by the State and also the developer's reasons, if different from those cited by the State.

3. List the States in which you plan to offer your subdivision. State whether you have registered or plan to register with each of these States.

4. State whether the developer has made or intends to make a filing with U.S. Securities and Exchange Commission (SEC), which is related in any way to the subdivision. If a filing has been made with the SEC, give the SEC identification number; identify the prospectus by name; date of filing and state the page number of the prospectus upon which the specific reference to the subdivision is made.

5. State whether any of the persons named in part II. A. or B. of this statement of record other than those listed in C.4. above, have filed or been the subject of a filing related in any way to the subdivision with the SEC since April 28, 1969. If so, identify the person and state the date of filing and SEC identification number.

6. State whether any disciplinary action has been taken by the SEC with respect to any person identified with filings mentioned in subparts C.4. or C.5. above. If so, describe the action. Include in your description the names and addresses of the parties involved, the date of the action and the status and disposition thereof.

D. Supporting documentation.

1. General plan including a map or plat showing the total land owned or under option or other similar arrangement for acquisition of title to the land. Delineate thereon the land included in this offering, and the land upon which recreational and/or other common facilities will be located.

2. Copy of the property report, subdivision report, offering statement, or similar document filed with the State or States listed in C.1. above.

PART II. DEVELOPERS AND HOLDERS OF OWNERSHIP INTERESTS IN LAND, VIOLATIONS, BANKRUPTCIES AND LITIGATION

A. List the name and address and the type and extent of interest of each holder of any ownership interest in the land included in this offering. (Individual lot owners or lessees who have purchased or leased lots from the developer need not be listed.) If the holder is other than an individual, name the type of legal entity and list the interest and the extent thereof, of each principal. For the purposes hereof, "principal" shall mean any person or entity having a 10 percent or more financial interest.

B. If the developer does not own an interest in the land, list name and address of each individual or entity having an ownership interest in the developer. If the developer is other than an individual, name the type of legal entity and list the interest, and the extent thereof, of each principal. For the purposes hereof, principal shall mean any person or entity having a 10 percent or more financial interest.

C. Violations, bankruptcies and litigation.

1. State whether any of the persons named in A. or B. have been disciplined, debarred, or suspended by any governmental body or agency or indicated or convicted by any court for violation of a Federal, State, or local law or regulation in connection with activities relating to land sales, land investment, securities' sales, construction or sale of homes or home improvements or any other similar or related activity for which such official action was charged. If so, describe the action. Include in your description the names and addresses of the parties involved, the type and date of the action, and the status and disposition thereof.

2. State whether within the last 13 years any of the persons named in A, or B, above has filed a petition in bankruptcy or has had an involuntary petition in bankruptcy filed against him or been an officer or director of a company which has become insolvent or has voluntarily or involuntarily filed in bankruptcy. If so, describe the action. Include in your description the petition number, names, and addresses of petitioners, trustee and counsel the name and address of any other parties involved, the date of the action, the name and location of the court where the proceeding took place or is being held and the status or disposition thereof.

3. List all current litigation of which the developer is aware which, individually or in the aggregate, may have a material effect upon the developer or subdivision. Describe each such action with particularity. Every development during the course of such litigation which may effect a material adverse change with respect to the developer or subdivision promptly should become the subject of an amendment.

D. Supporting documentation:

1. If the developer is a corporation, submit a copy of the articles of incorporation, with all amendments, and a list of the officers and directors of the corporation.

If the developer is a partnership, unincorporated association, joint stock company, or any other form of organization, submit copies of articles of partnership or association and all other documents relating to its organization.

If the holder of any ownership interest in the land being offered is a person or entity other than the developer, submit copies of the above documents for such holder. (For purposes of this subpart D.1., it is not necessary to include the sales agent if the sales agent is a legal entity other than a holder of an ownership interest in the land.)

2. Submit a copy of the documents involved in the litigation or other action listed in paragraph C. above, if any. This includes but is not limited to copies of the following:

1. Complaint.
2. Answer.
3. Decision or other disposition.

PART III. IDENTITY OF INTEREST IN MORE THAN ONE FILING

A. Are any of the following directly or indirectly involved in any other subdivision: The holders of an ownership interest in the land; the developer; principals or officers in the holder or developer. If so, identify by subdivision name and location. If registered with OILSR, give the OILSR number or numbers.

B. State whether the developer is a subsidiary corporation. If so, identify the parent company by name and address and state whether the parent company or any of its subsidiaries are directly or indirectly involved in any other subdivision which has been filed with the Office of Interstate Land Sales Registration. If so, identify by subdivision name, location, OILSR number or numbers and date of filing. If not applicable, state "None."

C. Has a suspension order been issued by the Office of Interstate Land Sales Registration with respect to any statement of record identified in subpart A or B above? If so, identify the statement of record by its OILSR number. (Do not list suspension notices on preeffective statements of record and amendments.)

PART IV. TOPOGRAPHY, CLIMATE, NUISANCES, SUBDIVISION MAP, PERMITS AND LICENSE

A. Topography and physical characteristics.

1. Describe the general topography and physical characteristics of the subdivision; for example, level, hilly, rocky, etc.; loose sand, alkaline soil, etc.

2. State whether any of the lots or portions thereof, in the offering are covered by water at any time during the year or are subject to floods, hurricanes, tornadoes, earthquakes, mudslides, brushfires, forest fires, avalanches, volcanic eruptions, or other natural hazards.

The existence severity and frequency of natural hazards should be fully explained. If any of the natural hazards of the type illustrated in this paragraph are present, state whether the area in which the subdivision is located has been formally identified by any Federal, State, or local agency as being in an area subject to a special natural hazard and whether the area is or will be subject to any special land use requirements which will restrict development or entail unusual development or maintenance expense. Include in your answer a statement of whether the subdivision is affected by a flood plain, including a 100 year flood plain, or is in an area designated to be flood prone as identified by the Federal Insurance Administration, U.S. Department of Housing and Urban Development, Washington, D.C. Describe the effect which such a flood plain will have on the lots in the offering. Identify the lots affected. If in an identified area of special flood hazards, state whether flood insurance is available for new construction in the area and if available, the extent to which it may be required by Federal agencies. State the approximate range of the cost of such insurance.

3. Is any part of the subdivision subject to any type of flood control easements?

4. Describe any unstable or expansive soil condition which will necessitate the use of special construction techniques. Identify the lots affected.

5. What percentage of the land will require fill before construction? If any, describe plans for fill, including composition and estimated cost to lot buyer or lessee.

6. With the exception of fill, what percentage of the land in the subdivision will require corrective work before construction of a one-story residential structure? If any, describe type of work and plans for correction, and state the estimated cost to buyer or lessee.

7. State elevation of the highest and lowest lots in the subdivision.

B. Climate and temperature.

1. Describe general weather conditions of the area.

2. State temperature ranges for summer and winter, including high, low, and mean.

3. State annual average rainfall and, if applicable, snowfall, in inches.

C. Nuisances.

1. Describe any on-site and off-site land uses which may affect the subdivision. Any unusual or unpleasant noises, odors, pollutants, or other nuisances should be specifically identified.

Examples of unusual noises which might affect the subdivision include proposed or existing industrial activity, airports or other transportation facilities, animal pens, entertainment centers, or the like. Examples of unpleasant odors include noxious smoke, chemical fumes, stagnant ponds or marshes, slaughterhouses, and sewage treatment facilities. Any such conditions should be accurately described and fully explained identifying their origin and location and whether they are proposed or existing. If they are existing whether temporary (estimate duration) or permanent.

2. Do you know of any unusual safety factors or of any proposed plans, private or governmental, for construction of any facility which may create a nuisance or adversely affect the use of the land? Examples of unusual safety factors which could affect the subdivision include physical hazards such as dilapidated or abandoned properties, unsafe construction, air or vehicular traffic hazards, danger from fire or explosion, and radiation hazards. Any such conditions should be accurately described identifying their origin and location and whether they are proposed or existing. If they are existing, whether temporary (estimate duration) or permanent.

D. Subdivision map, permits and licenses.

1. State whether a subdivision map has been filed with and accepted for recording by local authorities. If so, give recording data.

2. Has each lot in the subdivision been surveyed?

3. Has each individual lot been staked or marked so that the buyer can identify the boundary lines of his lot? If not, state estimated cost to purchaser or lessee to obtain a survey and to have boundary lines staked or marked.

4. Will all streets shown on the tract map, if any, be public streets?

5. Has legal access been provided to each of the individual lots within the subdivision?

6. State minimum width of legal access to the lots.

7. State whether lot purchasers will be required to obtain a building permit before they will be able to construct on their lot. If so, identify the agency or entity from which the permit must be obtained.

8. Identify the Federal, State, and local agencies or similar organizations which have the authority to regulate or issue permits or licenses which may have a material effect on the developers' plans with respect to the proposed division of the land, facilities, proposed facilities, common areas, improvements or proposed improvements to the subdivision. Your answer shall specifically address itself

to the areas of Environmental Protection Agencies, environmental impact statements. Corps of Engineers permits to construct, dredge bulkhead, affect the flow of, or otherwise change or affect bodies of water within or around the subdivision. Also, include any permits or licenses issued or required by Water Resources Boards or Pollution Control Boards, River Basin Commissions, Conservation Agencies, or other similar organizations or entities. If no agency regulates the proposed division of the land or issues a permit or license with respect to facilities or improvements in the subdivision, so state. If you are exempt from the provisions of a statute which normally requires a permit or license, cite the specific provision of the statute under which you are exempt and state whether you have obtained an advisory opinion or similar document from that agency.

E. *Supporting documentation.*—1. Copy of an accurate map prepared to scale showing the dimensions of the lots and their relation to existing streets and roads. (To comply with this requirement, supply a map or maps which have been submitted to and approved by the local authorities as evidenced by the signatures of those authorities on the plats and which have been filed with the recorder of deeds or similarly constituted officer as evidenced by the notation of the recordation information.) If the plat has not been recorded, include a map prepared to scale, showing the proposed division, lot dimensions, and their relation to proposed and existing streets and roads. The unrecorded plat shall contain sufficient engineering data to enable a surveyor to locate the lots. The unrecorded plat should contain the approval of the local authorities.

a. The lot dimensions must be stated on the map in the standard unit of measure acceptable for such purposes in the political subdivision where the land is located.

b. Each of the lots and any common areas or facilities included or proposed to be included in the offering must be clearly delineated on the map.

c. Each page of the plat or plat map shall state the number of lots included in that page or map in the lower right-hand corner of the page.

d. Any encroachments or rights-of-way, on or over the land, should be shown or noted on the map.

e. If the land is described by metes and bounds, or by lands of adjoining owners, abutting streets, ways, etc., its boundaries should be defined on the map by courses, distances, and monuments, natural or otherwise, and the ownership and contiguous boundaries of adjoining lands and names of abutting streets, ways, etc.

f. If it is necessary to identify the land with U.S. patent or a State grant which is the source of title, a map of the land being offered should be superimposed on a copy of the map of the U.S. survey or State grant.

g. If the land being offered is part of a larger tract described in an abstract, it should, when necessary for its identification, be shown drawn to a common scale on a map showing the larger tract and any successive diminishing tracts.

h. Flood plains and/or any flood control easements which affect the subdivision shall be identified and clearly delineated on the plat map.

i. The map shall be prepared by a licensed surveyor or engineer.

j. The plat or map shall be sufficient to enable the Secretary to locate the lots described in part 1.B.3. of this section, the title evidence, part V of this section and item 2.b. of the property report, as well as any common facilities or recreational areas mentioned or identified in the statement of record and property report.

2. Copy of the current Geological Survey topographic map or maps of the largest scale available from the U.S. Geological Survey, Washington, D.C., with an outline of the subdivision and this offering clearly indicated thereon. The map must be a copy obtained from the U.S. Geological Survey. Photo or Xerox copies made by the developer are not acceptable.

3. Submit a copy of the permits or licenses or advisory opinions or similar documents obtained from the agencies or similar organizations identified in your answer to paragraph D.8. above.

PART V. CONDITION OF TITLE, ENCUMBRANCES, DEED RESTRICTIONS AND COVENANTS

A. State condition of the title to the land comprising the lots in this offering and any common areas or facilities related to or included in this offering. The statement shall include all encumbrances, easements, covenants, conditions, reservations, limitations, or restrictions applicable thereto. This requirement may be met only by submission of title evidence in the form of (1) an original or copy of a fee or owners policy of title insurance, a guaranty or guarantee of title, or a certificate of title or similar instrument issued by a title company, duly authorized by law to issue such instruments in the State in which the subdivision is located; or (2) a legal opinion, stating the condition of title, prepared and signed by an attorney at law experienced in the examination of titles and a member of the Bar in the State in which the property is located.

The title evidence shall be dated as of a date no earlier than 20 business days preceding the date of this filing and shall include:

1. An adequate legal description acceptable to the political subdivision for conveyancing of the land included in this offering. The title evidence shall include a separate legal description of the property upon which there is or will be located any common areas or facilities which will be known or advertised as being available for the benefit or use of purchasers of lots. The legal description shall specifically identify as individual parcels each of the lots included in this offering. If the filing is based on a proposed division of the land, the title evidence shall include a description of the perimeters of the proposed division of the land. If at the time of recordation or transfer, the legal description furnished herewith is discovered to be in error or is changed, an amendment must be filed correcting the statement of record. The legal description shall reference the plat maps included in the statement of record in answer to part IV. E.1. and specifically state the status of the legal and equitable title with respect to the land included within those plats. The reference to the recorded plat maps shall be a sufficient legal description if those plats clearly delineate the lots and any common areas or facilities. Reference to a proposed plat shall be a sufficient legal description if those plats clearly delineate the lots and any common areas or facilities and include an accurate description of the perimeters of the proposed division of the land.

2. The name of the person(s) or other legal entity(ies) holding fee title to the property described.

3. The name of any person(s) or other legal entity(ies) holding a leasehold estate or other interest of record in the property described.

4. A listing of any and all exceptions or objections to the title, estate or interest of the person(s) or legal entity(ies), referred to in 2 or 3 above, including any encumbrances, easements, covenants, conditions, reservations, limitations, restrictions of record. (Any reference to exceptions or objections to title shall include specific references to the instruments in the public records upon which the exception is based.) When an objection or exception to title affects less than all of the property included in this offering, the title evidence should specifically note which lots are affected.

5. Copies of all instruments in the public records specifically referred to in 4 above. (Abstracts of such instruments are acceptable if prepared by an attorney or professional or official abstracter qualified and authorized by law to prepare and certify to abstracts and if the abstracts contain the material portion of the recorded instruments to determine the nature and effect of such instruments.)

6. The title evidence shall include or be accompanied by a map, plat or plan, exhibit IV.E.1. of the statement of record, based on a survey or a scale map of the proposed lots offering prepared by a licensed surveyor or engineer, sufficient to enable the Secretary to locate the lots described in the title evidence. If the map is proposed, the title evidence shall so state.

7. The title evidence shall include a statement as to whether there is a holder of an ownership interest in land other than the developer. If so, include documentation which evidences the developer's authorization to develop and/or sell the land.

8. State whether the blanket encumbrances, if any, contain release provisions. State the legal sufficiency of those release provisions with respect to the protection of lot purchasers. State whether those rights are personal in nature and may be cut off by a foreclosure purchaser or whether they run with the land. State whether the release provisions are a matter of public record. If so, list the recordation data. If an escrow or trust arrangement is to be used, include a copy of the escrow or trust agreement and any instructions under which the escrow agent or trustee will proceed.

9. The title evidence shall include a search of all of the public records which may contain documents which would affect the title to the land. The title evidence shall state the public records which were searched. The search shall include anything which would affect the developers ability to deliver marketable title and must include but need not be limited to the following:

a. The records of the recorder of deeds or similar authority.

b. U.S. Internal Revenue liens.

c. The records of the circuit, probate, or other courts including Federal courts and bankruptcy or reorganization proceedings which have jurisdiction to affect the title to the land.

d. The tax records.

e. Financing statements filed pursuant to the Uniform Commercial Code or similar law. If it is held that the financing statements do not affect the title to the land, include a statement of the legal authority for that opinion.

Where the title evidence is dated earlier than 20 days prior to the date of filing, the requirement for a statement of the condition of title may be met by submitting that evidence together with an attorney's opinion of title covering the period from the date of the title evidence to a date no earlier than 20 business days preceding the date of the filing. The attorney's opinion shall be prepared and signed by an attorney at law experienced in the examination of titles and a member of the Bar in the State in which the property is located.

B. Describe and furnish copies of any instrument, not of public record, known to the developer, which if recorded would affect the condition of title. (Copies of instruments to individual lot owners or lessees who have purchased or lease lots from the developer need not be described or furnished.)

C. State the consequences for an individual purchaser of a failure, by the person or persons bound, to fulfill obligations under any instrument or instruments, referred to under A or B above, which create a blanket encumbrance upon the property, or any portion thereof, described under A, above.

D. Describe and furnish copy(ies) of any trust deed(s), deed(s) in trust, escrow agreement(s) or other instrument(s) which purport to protect the purchaser in the event of default by the person or persons bound to fulfill obligations under any instrument or instruments, referred to under A or B, above, which create a blanket encumbrance upon the property or any portion thereof, described under A, above.

PART VI. GENERAL TERMS AND CONDITIONS OF OFFER, PROPOSED RANGE OF SELLING PRICES OR RENTS

A. Summarize the terms and conditions of the offer and of the contract of sale or lease. The summary must include, but shall not be limited to:

1. A statement of the terms of release of lots from the blanket encumbrance, if the subdivision, or any portion thereof, is subject to a blanket encumbrance. If there is no provision for release, describe any legal steps taken to protect the purchaser or lessee in the event the obligor on the blanket encumbrance defaults.

2. A statement of the disposition which will be made of earnest money or good faith deposits and downpayments or other payments received from buyers or lessees including any steps taken to protect the buyer or lessee in the event the seller or lessor does not perform his obligations under the contract.

3. A statement of the disposition which will be made of earnest money or good faith deposits and downpayments and other payments received from buyers or lessees who default under the terms of the contract.

4. A statement regarding the existence of any qualifications or exchange provision in any contract or agreement by which a seller may withdraw his offer subsequent to acceptance by a purchaser, such as cancellation by a seller as a result of a prior sale, or as a result of a purchaser's failure to qualify with any eligibility requirements established by the developer or any other qualifying body.

5. A statement regarding any provisions by which lots are assigned or designated after purchaser executes the sales contract. State any provisions or practices by which the purchaser may exchange his lot for another lot. State any provisions which offer the purchaser either a full or partial refund or refund which may only be applied toward the purchase of another lot.

6. State the method of sale to be employed, i.e., cash, installment, mortgage, deed of trust, or similar arrangement. State the projected time of transfer of title. If the deed will be recorded at the time of transfer of title, state who will be responsible for recordation. If not recorded at the time of the transfer of title state whether the contract or deed will be recorded. If it is to be recorded, state when and by whom. State the term of the installment payments and the annual interest rate charged.

7. State whether you anticipate that any of the instruments used in the process of completing the sale to a lot purchaser will be assigned, pledged, factored, or discounted by the developer.

8. State whether the developer proposes to resell purchasers lots for them or whether purchasers must sell the lots independently.

B. State the range of selling prices or rents for lots in the subdivision.

C. Supporting documentation.

1. A copy of all forms of contracts or agreements to be used in selling or leasing lots. The contracts or agreements, including promissory notes, must contain the following language in boldface type on the face or signature page above all signatures:

You have the option to void this contract or agreement if you did not receive a property report prepared pursuant to the rules and regulations of the U.S. Department of Housing and Urban Development in advance of, or at the time of your signing the contract, or agreement; and you have the right to revoke the contract or agreement within 48 hours after signing the contract or agreement if you did not receive the property report at least 48 hours before signing the contract or agreement.

* * * * *

The contracts or agreements may contain the following additional language in a separate and following paragraph from the rights of the purchaser stated above:

The foregoing revocation authority shall not apply if you (1) received the property report and inspected the lot to be purchased or leased in advance of signing the contract or agreement, and (2) if you acknowledge by your signature that you have made such inspection and that you have read and understood such report on the Waiver of Purchaser's Revocation Rights form attached to this contract.

* * * * *

Purchaser's acknowledgements, if any, shall be prepared as a separate page from those set forth above. They shall be prepared in accordance with the following text and instructions and shall be in a form nearly identical to the sample form printed on the next full page of this publication and titled WAIVER OF PURCHASER'S REVOCATION RIGHTS.

WAIVER OF PURCHASER'S REVOCATION RIGHTS

THE INTERSTATE LAND SALES FULL DISCLOSURE ACT PROVIDES YOU WITH THE FOLLOWING VALUABLE RIGHTS

You are notified that: Unless you received a copy of the property report prepared in accordance with the rules and regulations of the U.S. Department of Housing and Urban Development, Office of Interstate Land Sales Registration, prior to or at the time you enter into your contract, you may void the contract by notice to the seller.

You are further notified that: You have the right to revoke your contract or agreement within 48 hours after signing your contract or agreement if you did not receive the property report at least 48 hours before you signed your contract or agreement. The Interstate Land Sales Full Disclosure Act permits you to waive your rescission and revocation rights if you received your copy of the property report and inspected the lot to be purchased or leased in advance of signing the contract or agreement and if you acknowledge by your signature that you have made an inspection of the lot and that you have read and understood the property report.

You are cautioned that: Your signature below will result in a waiver of your rights as stated above.

You are further cautioned that: You should be sure that you have carefully inspected the lot to be purchased. You should also ascertain that you have read and that you understand the property report. If you have difficulty in understanding any of the provisions stated in the property report, you should consult an attorney or seek other professional assistance.

ACKNOWLEDGMENT BY PURCHASER

I hereby acknowledge by my signature below that I have inspected the lot to be purchased; that I have read and understood the property report and that I understand that I am waiving my right under the Act to rescind or revoke my contract.

You are not required to sign this document.

Date Purchaser

Purchaser

* * * * *

The foregoing statement shall be prepared in type of no less than 10 point font. It shall be centered and well proportioned on a sheet of paper no less than 8 by 10 inches in size and shall be attached to the contract or agreement used in the sale or lease of land in the subdivision. One copy of this form shall be given to each purchaser and another copy shall be retained by the developer. Upon demand by the Secretary, the developer shall, without delay, file copies of the executed waiver of buyer's rights form and such applicable contracts as the Secretary may specify.

WAIVER OF PURCHASER'S REVOCATION RIGHTS

THE INTERSTATE LAND SALES FULL DISCLOSURE ACT PROVIDES YOU WITH THE FOLLOWING VALUABLE RIGHTS

You are notified that: Unless you received a copy of the property report prepared in accordance with the rules and regulations of the U.S. Department of Housing and Urban Development, Office of Interstate Land Sales Registration, prior to or at the time you enter into your contract, you may void the contract by notice to the seller.

You are further notified that: You have the right to revoke your contract or agreement within 48 hours after signing your contract or agreement if you did not receive the property report at least 48 hours before you signed your contract or agreement. The Interstate Land Sales Full Disclosure Act permits you to waive your rescission and revocation rights if you received your copy of the property report and inspected the lot to be purchased or leased in advance of signing the contract or agreement and if you acknowledge by your signature that you have made an inspection of the lot and that you have read and understood the property report.

You are cautioned that: Your signature below will result in a waiver of your rights as stated above.

You are further cautioned that: You should be sure that you have carefully inspected the lot to be purchased. You should also ascertain that you have read and that you understand the property report. If you have difficulty in understanding any of the provisions stated in the property report, you should consult an attorney or seek other professional assistance.

ACKNOWLEDGMENT BY PURCHASER

I hereby acknowledge by my signature below that I have inspected the lot to be purchased; that I have read and understood the property report and that I understand that I am waiving my right under the Act to rescind or revoke my contract.

You are not required to sign this document.

.....

Date Purchaser

.....

Purchaser

The above revocation and voidability provisions may not be limited or qualified in the contract or other document by requiring a specific type of notice or by requiring that notice be given at a specified place. If the contract contains a blanket provision with regard to notice, the above revocation and voidability provision under the Interstate Land Sales Full Disclosure Act should be exempted from the operation of the noticed provision.

2. A copy of the agreement, if not included in the sales contract, in which seller agrees

with buyer to secure release of lots from any blanket encumbrance.

3. Copies of deeds and leases by which the developer will lease or convey title to the lots to purchasers or lessees.

PART VII. ACCESS, NEARBY COMMUNITIES, ROAD SYSTEM WITHIN THE SUBDIVISION

A. Access—nearby communities.

1. Describe present condition of access routes to the subdivision, including type and width of road surface and number of lanes.

2. Are any improvements proposed to access routes? If so, state who will bear the cost of the improvements and the estimated completion date. If the improvements are to be made by a local governmental authority, state the name of the authority, and the source of funds to complete the improvements. If lot owners will be subject to a special assessment or similar charge for such improvements which shall be a lien on the lots in the subdivision, so state.

3. List nearest large cities and the county seat, and the population of each. List the total distance to the center of the subdivision from each and the portion of that distance which is paved and unpaved. If the geographical center of the subdivision is located more than 50 miles from a large city or the county seat, list also the nearest established community or communities.

B. Road system within the subdivision.

1. Describe the present condition of the road system within the subdivision, including the type and width of road surface, number of lanes and approximate dedicated width of roads. State whether all of the lots in the subdivision can be reached by conventional automobile.

2. State any proposed improvements to the road system within the subdivision, the percentage completed, and the estimated schedule for completion. State who will bear the cost of the improvements; and if any of the cost is to be borne by the purchaser, state the estimated cost to the purchaser.

3. State whether the roads within the subdivision have been dedicated to and accepted by a public authority responsible for maintenance. If not dedicated and accepted, state who will be responsible for maintenance. If the lot owner will be responsible for maintenance, state the estimated cost to the purchaser.

C. Supporting documentation.

1. If the developer is to complete access routes, submit a copy of any contracts and a copy of any bonds or escrow agreements to guarantee completion thereof. If the access routes are to be completed by the local government submit a copy of a letter from the local authorities setting forth the plan for completion of access routes and maintenance thereof.

2. Copies of contracts for the completion of the road system within the subdivision and copies of the bond or escrow agreements to assure completion thereof.

3. Copy of letter from local authority setting forth the plan for maintenance of the road system within the subdivision.

4. Submit a synopsis of the proposed plans, degree of completion of the work, and estimated cost of the proposed road system pertaining to the offering. The synopsis shall specifically include but need not be limited to the following.

a. A typical cross section or cross sections of the streets and curbs, if any, showing the subbase, the base, and the surface materials.

b. State the estimated cost of the street system.

PART VIII. UTILITIES

A. Water.

1. State the availability of the water supply and whether the supply will be adequate to serve the anticipated population of the area.

2. Is the water supplied or to be supplied by a public (municipality) or privately owned entity? State name and address and whether the company is regulated by a public body. If not regulated by a public body, is there any other means of assurance of continuous service and reasonable rates? If the entity which will provide water to the subdivision is covered by one of the criteria set forth below then the provisions of paragraphs 2 a through d and 7 e through g may be answered "not applicable" or if the information with respect to the entity which is to provide this service is disclosed in detail in Part XI C of this statement of record these paragraphs may be answered by incorporating by reference the appropriate answer to that Part. The criteria are as follows:

1. A municipality or

2. A public or private entity which is not controlled by the developer and the rates of which are regulated by a public body.

If the entity does not meet one of the above criteria then the developer must submit the additional information required by paragraphs 2 a through d and 7 e through g.

a. A statement that the association, organization or other entity has been formed or setting forth the steps to be taken to form such association or organization or other entity. State whether the plans and installation of the system have been approved by the Health Department and/or by the appropriate regulatory agencies of the State.

b. A statement setting forth the requirements for membership in the association, organization, or other entity or describing the method by which a purchaser will secure the services of the company. State whether all lot owners will be members of the association, organization, or other entity and/or whether they will be entitled to service to their lots. State the method by which lot owners will be assessed for the service and state whether nonmember lot owners or nonsubscribers will be liable for assessments levied by that association, organization, or entity.

c. State whether the lot owners will be permitted or required to use the services of the company. If a lot owner has made other provisions for a water supply, state whether he will be required to discontinue the use of his individual system when the utility is provided. Also state whether he will be required to connect to and/or be assessed for the cost of the central system.

d. A statement of the degree and duration of control of the developer in the association, organization, or other entity.

3. State whether the waterlines will be extended to the individual lots. If they are to be extended, state the estimated schedule for the extension and the assurance of completion.

4. State estimated cost of installation or construction to be borne by the purchaser, if any.

5. Is the water supply to be obtained from private well? If so, indicate (1) probable depth and (2) results of test borings or other data establishing that a sufficient quantity of potable water is available to each buyer or lessee and (3) estimated total completion cost to buyer or lessee.

6. If water is provided by a supplier not regulated by a public body, state the rate schedule.

7. Supporting documentation.

a. Copy of a letter from water company stating that it will supply the water.

b. Copy of the contract for construction, if any, and the bond or escrow agreement to assure completion of the facility, if any.

c. Submit a copy of an engineer's report or geological report indicating the source and quantity of the waters. The report shall include a statement of whether the water supply is sufficient to serve the anticipated total population of the area based upon the general plan submitted in answer to part I.D.1 of this section.

d. Copy of letter or report from cognizant health officer which includes an analysis and an interpretation of that analysis in layman's language of the chemical quality and bacteriological purity of water.

e. If as indicated in paragraph 2. above, the association, organization, or other entity has been formed as a legal entity, attach as exhibits copies of articles of association and bylaws or similar documents and a statement from the appropriate State authority confirming that the charter is in effect. If not formed, attach proposed articles of association and by laws or similar documents.

f. Copy of membership agreement or similar documents or the contract by which the lot owners will be required to use the services or permitted to use the services of the utility.

g. Financial statements or pro forma financial statements of the entity identified in paragraph 2. above, including a statement of sources and application of funds for the 12-month period ending not earlier than the 180th day prior to the date of the submission of the statement of record and a pro forma statement of sources and application of funds for the period of time that the developer will control the association. If moneys paid by buyers or lessees as assessments, dues, or other payments for the purpose of providing water or maintenance of the water system to any lots or common facilities or areas are received by the developer or any other organization or entity other than a property owners' association, a statement of sources and application of funds and a pro forma statement of sources and application of funds covering funds received for such purposes shall be submitted. A financial statement or pro forma financial statement of the developer or other organization or entity shall also be submitted. In no event shall a pro forma statement of sources and application of funds be required to extend beyond 5 years from the date of submission of the statement of record. If the developer has no control over the property owners' association or other organization or entity and cannot obtain this information, so state. If the entity incurs a deficit, state how that deficit will be recovered.

h. Submit a synopsis of the proposed plans, degree of completion of the work, and estimated cost of the proposed water system. The synopsis shall include but need not be limited to the following:

i. Describe how the water will be obtained from the source, the capacity of the system, storage facilities and method of distribution.

ii. State the estimated cost of the water system.

B. Electricity.

1. State whether electricity is available and, if so, the name and address of the supplier from which it may be obtained.

2. Is the supplier a public or private utility company? State whether the supplier is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates.

3. Have the electrical facilities been extended to the idividual lots?

4. If the electrical facilities have not been extended to the individual lots, what is the estimated schedule for installation and what estimated costs, if any, will be borne by the purchaser?

5. State the assurance of completion if the electrical facilities are to be installed by the developer.

6. Supporting documentation.

a. Copy of a letter from the electric company stating that it will supply the electricity.

b. If electricity is provided by a supplier not regulated by a public body, state the rate schedule.

c. Copy of the contract for construction of electrical facilities, if any, and any bond or escrow arrangements to assure completion of the facilities.

C. Gas.

1. State the availability of gas including the name and address of the supplier.

2. Is the supplier a public or private utility company? State whether the supplier is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates?

3. Have gas lines been extended to the individual lots?

4. If the gas facilities have not been extended to the individual lots, what is the estimated schedule for installation and what estimated costs will be borne by the purchaser?

5. State the assurance of completion if the gas facilities are to be installed by the developer?

6. Supporting documentation.

a. Letter from the gas supplier stating that it will provide the service.

b. If gas is provided by a supplier not regulated by a public body, state rate schedule for the service.

c. Copy of the contract for construction of the gas facilities, if any, and any bond or escrow arrangements to assure completion of the facilities.

D. Telephone.

1. State the availability of telephone service including the name and address of the supplier.

2. Is the supplier a public or private utility company? State whether the supplier is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates?

3. Have the telephone facilities been extended to the individual lots?

4. If the telephone facilities have not been extended to the individual lots, what is the estimated schedule for installation and what cost will be borne by the purchaser?

5. State the assurance of completion of the telephone facilities if those facilities are to be installed by the developer.

6. Supporting documentation.

a. Copy of a letter from the telephone company stating that the company will supply the service.

b. If telephone service is provided by a supplier not regulated by a public body, state the rate schedule.

c. Copy of the contract for the construction of the telephone services, if any, and any bond or escrow arrangements to assure completion of the facilities.

E. Sewage disposal.

1. State whether sewers are available and if so, the name and address of the entity responsible for installation and maintenance.

2. Is the entity a public (municipality) or privately owned entity? State whether entity is regulated by a public body. If not, are there any other means of assurance of continuous service and reasonable rates? If the entity which will provide sewerage disposal to the subdivision is covered by one of the criteria set forth below then the provisions of paragraphs 2 a through d and 10 c through e may be answered "not applicable" or if the information with respect to the entity which is to provide this service is disclosed in detail in Part XI C of this statement of record these paragraphs may be answered by incorporation by reference to the appropriate answer to that Part. The criteria are as follows:

1. A municipality or

2. A public or private entity which is not controlled by the developer and the rates of which are regulated by a public body.

If the entity does not meet one of the above criteria then the developer must submit the additional information required by paragraphs 2 a through d and 10 c through e.

a. A statement that the association, organization, or other entity has been formed or setting forth the steps to be taken to form such association or organization or other entity. State whether the plans and installation of the system have been approved by the health department and/or by the appropriate regulatory agencies of the State.

b. A statement setting forth the requirements for membership in the association, organization, or other entity or describing the method by which a purchaser will secure the services of the company. State whether all lot owners will be members of the association, organization, or other entity and/or whether they will be entitled to service to their lots. State the method by which lot owners will be assessed for the service and state whether nonmember lot owners or nonsubscribers will be liable for assessments levied by that association, organization, or entity.

c. State whether the lot owners will be permitted or required to use the services of the company. If a lot owner has made other provisions for sewage disposal state whether he will be required to discontinue the use of his individual system when the utility is provided. Also, state whether he will be required to connect to and/or be assessed for the cost of the central system.

d. A statement of the degree and duration of control of the developer in the association, organization, or other entity.

3. Have the sewage facilities been extended to the individual lots?

4. If the sewage facilities have not been extended to the individual lots, what is the estimated schedule for their installation and what estimated costs will be borne by the purchaser, including construction, installation, and connection costs?

5. State the assurance of completion if the sewage facilities are to be installed by the developer.

6. If public sewers are not now installed and are not to be installed, state the alternate sewage disposal method to be used, such as septic tanks or cesspools.

7. If a public sewer is not or will not be installed, state the estimated cost of installing the alternate method of sewage disposal.

8. Will the local health authorities approve the use of an alternate method of sewage disposal? Has such approval been obtained?

9. If use of septic tanks is contemplated, state whether the land is suitable for the use of septic tanks; include in your statement the results of any percolation tests.

10. Supporting documentation.

a. Copy of the contract for construction of the sewage disposal facilities, if any, and any bond or escrow arrangements to assure the completion of the facilities.

b. Copy of a letter from local health authorities stating the methods of sewage disposal which will or will not be permitted.

c. If as indicated in paragraph 2, above, the association, organization, or other entity has been formed as a legal entity, attach as exhibits copies of articles of association and bylaws or similar documents and a statement from the appropriate State authority confirming that the charter is in effect. If not formed, attach proposed articles of association and bylaws or similar documents, if available.

d. Copy of membership agreement or similar documents or contract by which the lot owners will be required to use the services or permitted to use the services of the utility.

e. Financial statements or pro forma financial statement of the entity identified in paragraph 2 above, including a statement of sources and application of funds for the 12-month period ending not earlier than the 180th day prior to the date of the submission of the statement of record and a pro forma statement of sources and application of funds for the period of time that the developer will control the association. If moneys paid by buyers or lessees as assessments, dues, or other payments for the purpose of providing sewerage or maintenance of the sewerage disposal system to any lots or common facilities or areas are received by the developer or any other organization or entity other than a property owners' association, a statement of sources and application of funds and a pro forma statement of sources and application of funds covering funds received for such purposes shall be submitted. A financial statement or pro forma financial statement of the developer or other organization or entity shall also be submitted. In no event shall a pro forma statement of sources and application of funds be required to extend beyond 5 years from the date of submission of the statement of record. If the developer has no control over the property owners' association or other organization or entity and cannot obtain this information, so state. If the entity incurs a deficit, state how that deficit will be recovered.

f. Submit a synopsis of the proposed plans, degree of completion of the work, and estimated cost of the proposed sewerage system. The synopsis shall include but need not be limited to the following:

i. Describe the system of sewage collection and method of disposal (type of plant treatment and outfall).

ii. State the estimated cost of the sewerage disposal system.

F. Drainage and flood control.

1. State whether there has been or will be any drainage required to render any of the lots suitable for construction purposes. If so, list the lots, and state estimated cost to purchaser.

2. Have artificial drains, storm sewers, or flood control channels been installed?

3. If these facilities have not been installed, what is the estimated schedule for completion, if any, and what estimated costs or other assessments will the purchaser be expected to pay?

4. If the developer is to install these facilities, state the assurance of completion.

5. State whether the developer has a program to control soil erosion, sedimentation and periodic flooding throughout the entire subdivision?

6. Has the plan or program been approved by the appropriate officials responsible for the regulation of land development?

7. Is the developer obligated to comply with the plan or program? If so, state the nature of the obligation.

8. Supporting documentation:

a. Copy of the contract for the construction of the artificial drains, storm sewers, or flood control channels, if any, and any bonds or escrow agreements to assure completion of the facilities.

b. If drainage is provided or to be provided by a public or private company, submit a letter from the company stating that it will provide the service.

c. Submit a copy of the local authority's approval of the plan identified in paragraphs 5. and 6. above. The plan or program addressed in your answers to this paragraph and to paragraphs 5 through 7 above should include but need not be limited to the following technical principles:

1. Reducing the duration of exposure of soils without vegetative covering between the time of grading and the time of final planting.

2. Covering the soil with mulch or vegetation.

3. Mechanically retarding the rate of runoff water.

4. Trapping the sediment in the runoff water, by use of temporary silt basins.

Temporary control measures in areas affected by heavy grading or cut and fill consist of temporary mulching and seeding to provide quick protection. Permanent control measures consist of sodding and seeding to provide permanent vegetation and the construction of any one or a combination of diversion channels, ditches, or outlet channels, waterway stabilization structures, and sediment control basins.

d. Submit a synopsis of the proposed plans, degree of completion of the work and estimated cost of the proposed facilities or improvement. The synopsis shall include but need not be limited to the following:

i. Describe the system of collection of surface waters and method of disposal (type of facility, storage, and treatment, if any, and outfall).

ii. Describe the steps to be taken to control erosion and sedimentation.

iii. State the estimated cost of drainage and flood control facilities.

G. Television.

1. Is television reception available to the lots within the subdivision without reception cost?

2. If not, state estimated cost to user.

PART IX. RECREATIONAL AND COMMON FACILITIES

List any common or recreational facilities which have been or are to be installed for the beneficial use and enjoyment of the owners of lots in the subdivision which have not been discussed in the previous parts of the Statement of Record. Identify each facility and answer the following questions for each:

A. (Name of facility.)

1. If the facility has not been installed, what is the percentage of completion, the estimated schedule for completion and what estimated costs will the purchaser have to pay?

2. What provisions have been made for the maintenance and operation of the facility and what is the estimate of the assessments or other recurring charges to be paid by the purchaser?

3. Include a statement of the assurance of completion of the facility if the developer is responsible for construction.

4. If a property owners' association, or similar organization, owns or will own the facility, so state. If the association has not been formed as a legal entity, state when it is expected to be formed and the conditions under which the association will take title to the facility.

5. Supporting documentation.

a. Include a copy of the contract for construction of the facilities, if any, and describe any bond or escrow arrangements to assure completion of the facilities.

b. Submit a synopsis of the proposed plans, degree of completion of the work, and estimated cost of the proposed facility or improvement.

i. State the dimensions and type of facility.

ii. Describe the type of materials to be used in the construction of the facility.

iii. Describe the type or design of the construction.

iv. State the estimated cost of the proposed facility.

PART X. MUNICIPAL SERVICES

A. Fire protection.

1. State the availability of fire protection and list the name and address of the particular force exercising jurisdiction over the subdivision.

2. State whether the service is provided by the municipality or by a volunteer organization.

3. State the distance in terms of road miles from the geographical center of the subdivision to the nearest fire station or substation.

B. Police protection.

State the availability of police protection and list the name and address of the particular force exercising jurisdiction over the subdivision.

C. Garbage and trash collection.

1. State the availability of garbage and trash collection service and the name and address of the company which presently furnishes the service. If garbage and trash collection service is not presently available, state whether such service is proposed; and if it is, give the date on which it will become effective.

2. State whether the cost of the service is to be paid directly by the lot owner or whether the service is to be provided by a municipal agency.

3. If the cost of the service is to be paid directly by the lot owners, state the estimated monthly cost per lot.

D. Public schools.

1. Elementary school.

a. State name and address of the nearest elementary school available to residents of the subdivision.

b. State the distance to the school in terms of road miles from the geographical center of the subdivision.

c. State whether school bus transportation will be provided.

d. State whether public transportation is available to the school.

2. Junior high school.

a. State name and address of the nearest junior high school available to residents of the subdivision.

b. State the distance to the school in terms of road miles from the geographical center of the subdivision.

c. State whether school bus transportation will be provided.

d. State whether public transportation is available to the school.

3. High school.

a. State name and address of the nearest high school available to residents of the subdivision.

b. State the distance to the school in terms of road miles from the geographical center of the subdivision.

c. State whether school bus transportation will be provided.

d. State whether public transportation is available to the school.

E. Medical and dental facilities.

1. Hospital facilities.

a. State the availability of hospital facilities and the name and address of the particular hospitals available to residents of the subdivision.

b. State whether the hospital is publicly or privately owned and whether the services are general or specialized.

c. State the bed capacity of the hospital.

d. State the distance in terms of road miles from the geographical center of the subdivision to the nearest general hospital.

e. State the availability of ambulance service and specify whether this service is furnished by the hospital(s) or by a volunteer organization.

2. Physicians and dentists.

a. State the distance in terms of road miles from the geographical center of the subdivision to physicians' and dentists' offices.

b. State whether or not public transportation is available from the subdivision to the general physicians' and dentists' offices.

F. Public transportation.

1. State whether public transportation is available from the subdivision to nearby municipalities including the frequency, type and estimated cost of service.

2. If no such transportation is available, state whether it will be available and give estimated date of availability.

3. Include in your statement the proposed frequency of service and estimated cost.

4. If public transportation is not presently available from the subdivision, state the distance in road miles to nearest public transportation.

G. U.S. Postal Service.

1. State whether the U.S. Postal Service currently delivers mail to each of the lots in the subdivision. If not, state the nearest location where a lot purchaser can pick up his mail and describe that facility.

2. Give the location, including the street address, of the post office responsible for service to the area in which the lot is located.

3. State the distance to the post office identified in 2. above over streets and roads from the center of the subdivision.

PART XI. TAXES AND ASSESSMENTS—COMMON FACILITIES

A. Will the buyer or lessee be required to pay any property taxes or special assessments to any municipal, governmental or public body after signing the contract of purchase or to lease and prior to delivery of an executed deed or lease? Will the buyer or lessee be required to pay any assessments, dues or other payments to a property owners' association, the developer or any other organization or entity for the maintenance of common facilities or other purposes after signing the contract to purchase or lease and prior to delivery of an executed deed or lease? If the answer to either of the foregoing questions is affirmative, itemize the amounts or rates to be paid and to whom they must be paid.

B. Will the buyer or lessee be required to pay any property taxes or special assessments to any municipal, governmental or public body after taking title? Will the buyer or lessee be required to pay any assessments, dues or other payments to a property owners' association, the developer or any other organization or entity for the maintenance of common facilities or other purposes after taking title? If the answer to either of the foregoing questions is affirmative, itemize the amounts or rates to be paid and to whom they must be paid.

C. If a property owners' association, the developer, or any other organization or entity, exercises or will exercise any control over or provides or will provide any services or maintenance on any lots or common facilities or areas in or adjacent to the development, include:

1. A statement that the association, organization or other entity has been formed or setting forth the steps to be taken to form such association or organization or other entity.

2. A statement setting forth the requirements for membership in the association, organization or other entity and stating whether all lot owners will be members of the association, organization or other entity and if not whether nonmember lot owners will be liable for assessments levied by that association, organization or other entity.

3. Financial statements or pro forma financial statements of any property owners' association, including a Statement of Sources and Application of Funds for the 12-month period ending not earlier than the 60th day prior to the date of the submission of the Statement of Record and a pro forma Statement of Sources and Application of Funds for the period of time that the developer will control the association. If moneys paid by buyers or lessees as assessments, dues or other payments for the purpose of providing

any services or maintenance on any lots or common facilities or areas are received by the developer or any other organization or entity other than a property owners' association, a Statement of Sources and Application of Funds and a pro forma Statement of Sources and Application of Funds covering funds received for such purposes shall be submitted. A financial statement or pro forma financial statement of the developer or other organization or entity shall also be submitted. In no event shall a pro forma Statement of Sources and Application of funds be required to extend beyond 5 years from the date of submission of the Statement of Record. If the developer has no control over the property owners' association or other organization or entity and cannot obtain this information, so state.

If the entity incurs a deficit, state how that deficit will be recovered.

4. A statement as to who may use the facilities.

5. A statement of the degree and duration of control of the developer in the association, organization, or other entity.

6. If the association, organization, or other entity has been formed as a legal entity, attach as exhibits copies of articles of association and bylaws or similar documents and a statement from the appropriate State authority confirming that the charter is in effect. If not formed, attach proposed articles of association and bylaws or similar documents, if available.

7. Copy of membership agreement or similar documents.

PART XII. OCCUPANCY STATUS

A. State the approximate number of dwellings in the subdivision at the time of filing.

B. State the number of dwellings which are proposed and the estimated completion date of those dwellings.

C. State the approximate number of dwellings presently occupied, if any.

PART XIII. SHOPPING FACILITIES

A. State what shopping facilities are available to the subdivision. Include available types of stores and consumer services and the distance in terms of road miles from the geographical center of the subdivision to the facilities.

B. State whether public transportation is available to the facility, the frequency of the service and the estimated cost.

PART XIV. FINANCIAL STATEMENTS

A. Submit a copy of financial statements for the last full fiscal year, plus statements for an interim period up to the most recent practicable date. Generally, these should be no more than 6 months old. If the last full fiscal year has ended within the last 90 days and audited financial statements are not yet available, the developer may at his option submit a copy of audited financial statements for the previous full fiscal year, plus unaudited statements for a period up to the most recent practicable date (generally no older than 6 months). The statements shall include a balance sheet, a statement of profit and loss, and a statement of the sources and uses of cash, and shall be prepared in accordance with generally accepted accounting principles, as prescribed by the American Institute of Certified Public Accountants. The fiscal year financial statements shall be audited by an independent licensed public accountant, and shall include a certified opinion unless the aggregate price of the lots to be offered pursuant to the common promotional plan equals $500,000 or less and contains less than 300 lots. The developer shall submit new financial statements every 12 months if they disclose a material adverse effect upon the developers' financial position. If the financial statements submitted by the developer disclose a deficit in retained earnings, or that it has sustained an operating loss in the fiscal year being reported, the developer shall amend the property report as required by § 1710.110, part D., 3. of these regulations.

B. Describe the financing plan or plans that have been or are to be used in financing the onsite and offsite improvements proposed in the statement of record. Also, describe the financing plan that is to be used, and by whom, in the offering of lots for sale in this subdivision. If secondary financing is contemplated, give details. Describe fully any other financing plan, and with whom, which may affect title to the lots, which is not covered above or elsewhere in this statement of record.

PART XV. AFFIRMATION

The affirmation shall be signed by the developer's senior executive officer or his duly authorized agent.

§ 1710.110 Property Report and lease addendum—format and instructions.

The Property Report and, if applicable, the lease addendum to be filed with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, as a part of the Statement of Record, and as provided in § 1710.20, shall be prepared in question and answer form. The Property Report shall state verbatim the questions in this section. The developer shall answer the questions directly and completely in accordance with the format (part A.) and the instructions (part B.–D.) as follows:

Part A. Format:

PROPERTY REPORT

NOTICE AND DISCLAIMER BY OFFICE OF INTERSTATE LAND SALES REGISTRATION, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Interstate Land Sales Full Disclosure Act specifically prohibits any representation to the effect that the Federal Government has in any way passed upon the merits of, or given approval to this subdivision, or passed upon the value, if any, of the property.

It is unlawful for anyone to make, or cause to be made to any prospective purchaser, any representation contrary to the foregoing or any representations which differ from the statements in this property report. If any such representations are made, please notify the Office of Interstate Land Sales Registration at the following address:

Office of Interstate Land Sales Registration, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410.

Inspect the property and read all documents. Seek professional advice. Unless you received this property report prior to or at the time you enter into a contract, you may void the contract by notice to the seller.

Unless you acknowledge in writing on a waiver of purchaser's revocation rights form that you have read and understood the property report and that you have personally inspected the lot prior to signing your contract, you may revoke your contract within 48 hours from the signing of your contract, if you received the property report less than 48 hours prior to signing such contract.

1. Name(s) of developer_____
   Address _____
2. Name of subdivision_____
   Location _____County, State of _____
   a. Effective date of Property Report_____

3. List names and populations of surrounding communities and list distances over paved and unpaved roads to the subdivision.

Name of community	Population	Distance over paved roads	Unpaved roads	Total
a.				
b.				
c.				
d.				
e.				

4. Complete all items under this paragraph regardless of whether the sale will be an installment or cash sale.

a. Will the sales contract be recordable? Yes or No?

b. In the absence of recording the contract or deed, could third parties or creditors of any person having an interest in the land acquire title to the property free of any obligation to deliver a deed? Yes or No? _____ Explain. _____.

c. State whether and/or when the contract or deed will be recorded, and who will record it. State who will bear the costs of recordation, and the amount if those costs are to be borne by the purchaser.

d. What provision, if any, has been made for refunds if buyer defaults? If none, and the buyers payments are to be retained, state whether his loss will be limited to the amount of his payments to date, or whether he will be responsible to the developer or his assignees for additional damages or for the balance of his contract.

e. State prepayment penalties or privileges, if any.

5. Is there a blanket mortgage or other lien on the subdivision or portion thereof in which the subject property is located? Yes or No? If yes, list below and describe arrangements, if any, for protecting interests of the buyer or lessee if the developer defaults in payment of the lien obligation. If there is such a blanket lien, describe arrangements for release to a buyer of individual lots when the full purchase price is paid.

	Type of lien	*Effect on buyers if developer defaults*
a.	_____	_____
b.	_____	_____
c.	_____	_____

6. Does the offering contemplate leases of the property in addition to, or as distinguished from, sales? Yes or No? If yes, a lease addendum must be completed, attached, and made a part of the Property Report.

7. Is buyer or lessee to pay taxes, special assessments, or to make payments of any kind for the maintenance of common facilities in the subdivision (a) before taking title or signing of lease or (b) after taking title or signing of lease? If yes, complete the schedule below:

	Approximate amount of buyer's or lessee's annual payments
Taxes _____	0_____
Special assessments_____	_____
Payments to property owner's association _____	_____
Other _____	_____
Specify _____	_____

8. a. Will buyer's downpayment and installment payments be placed in escrow or otherwise set aside? Yes or No? If yes, with whom? If not, will title be held in trust or in escrow?

b. Except for those property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, will buyer receive a deed free of exceptions? Yes or No? If no, list all restrictions, easements, covenants, reservations and their effect upon buyer.

c. List the permissible uses of the property based upon the restrictive covenants, and which are consistent with local zoning ordinances.

d. List all existing or proposed unusual conditions relating to the location of the subdivision and to noise, safety or other nuisances which affect or might affect the subdivision.

9. List all recreational facilities currently available, proposed, or partly completed (e.g., swimming pools, golf courses, ski slopes, etc.) and complete the following format for each facility:

i. Facility	ii. % Complete	iii. Estimated Completion Date	iv. Financial Assurance of Completion	v. Developer Obligated?	vi. Buyer's Costs or Assessments

State who will own the facilities.

10. State availability of the following in the subdivision: State any estimated costs or assessments to buyer or lessee. If only proposed or partly completed, state estimated completion date, state provisions to assure completion, and give an estimate of all costs to buyer or lessee, including maintenance costs.

a. Roads:
1. Access:
Paved____
Unpaved____
2. Road system within the subdivision:
Paved____
Unpaved____
b. Utilities:
1. Water.
2. Electricity.
3. Gas.
4. Telephone.
5. Sewage disposal.
6. Drainage and Flood Control.
7. Television.
c. Municipal Services:
1. Fire protection.
2. Police protection.
3. Garbage and trash collection.
4. Public schools:
i. Elementary school.
ii. Junior high school.
iii. High school.
5. Medical and dental facilities:
i. Hospital facilities.
ii. Physicians and Dentists.
6. Public transportation.
7. U.S. Postal Service.

11. Will the water supply be adequate to serve the anticipated population of the area?

12. Is any drainage of surface water, or use of fill necessary to make lots suitable for construction of a one-story residential structure? Yes or No? If yes, state whether any provision has been made for drainage or fill and give estimate of any costs buyer would incur.

13. State whether shopping facilities are available in the subdivision; if not, state the distance in miles to such facilities and whether public transportation is available.

14. Approximately how many homes were occupied as of _____ (insert date of filing)?

15. a. State elevation of the highest and lowest lots in the subdivision and briefly describe topography and physical characteristics of the property.

b. State in inches the average annual rainfall and, if applicable, the average annual snowfall for the subdivision or the area in which it is located.

c. State temperature ranges for summer and winter, including highs, lows and means.

16. Will any subsurface improvement, or special foundation work be necessary to construct one story residential or commercial structures on the land? Yes or No? If yes, state if any provision has been made and estimate any costs buyer would incur.

17. State whether there is physical access (by conventional automobile) over legal rights-of-way to all lots and common facilities in the subdivision. State whether the access will be by public or private roads and streets and whether they will be maintained by public or private funds.

18. Has land in the subdivision been platted of record? Yes or No? If not, has it sion? Yes or No. Describe the program, if mated cost to buyer to obtain a survey.

19. Have the corners of each individual lot been staked or marked so that the purchaser can identify his lot? If not, state the estimated cost to the purchaser to obtain a survey and to have the corners of his lot staked or marked.

20. Does the developer have a program in effect to control soil erosion, sedimentation and flooding throughout the entire subdivision? Yes or No? Describe the program, if any. Has the plan been approved or must the plan be approved by officials responsible for the regulation of land development? Yes or No. Is the developer obligated to comply with the plan? Yes or No.

Include the following information at the end of the property report:

SPECIAL RISK FACTORS

(a) The future value of land is very uncertain; do NOT count on appreciation.

(b) You may be required to pay the full amount of your obligation to a bank or other third party to whom the developer may assign your contract or note, even though the developer may have failed to fulfill promises he has made.

(c) Resale of your lot may be subject to the developer's restrictions, such as limitations on the posting of signs, limitations to the rights of other parties to enter the subdivision unaccompanied, membership prerequisites or approval requirements, or developer's first right of refusal. You should check your contract for such restrictions and also note whether your lien or any other liens on the property would affect your right to sell your lot.

(d) You should consider the competition which you may experience from the developer in attempting to resell your lot and the possibility that real estate brokers may not be interested in listing your lot.

(e) Changing land development and land use regulations by government agencies may affect your ability to obtain licenses or permits or otherwise affect your ability to use the land.

FINANCIAL STATEMENTS

You should carefully review the attached financial statements of the developer (see exhibit A).

Signature of the Senior Executive Officer of the Developer

_____

(title)

LEASE ADDENDUM

1. State term of lease.
2. Will the lease be recordable? Yes or No?
3. Is there any prohibition or penalty against the lessee for recording the lease? Yes or No? If yes, explain.
4. Can the owner's or developer's creditors or others acquire title to the property free of any obligation to continue the lease? Yes or No? Explain.
5. Describe whether rental payments are flat sums or graduated. Describe any provisions for increase of rental payments during the term of the lease.
6. Are there any provisions in lease prohibiting assignment and/or subletting? Yes or No? If yes, describe.
7. Summarize termination provisions in the lease.
8. Does the lease prohibit the lessee from mortgaging or otherwise encumbering the leasehold? Yes or No?
9. Will lessee be permitted to remove improvement when lease expires?

Part B. Technical Instructions for Completing Property Report and Lease Addendum

1. These instructions must be followed in completing the Property Report and lease addendum. All spaces must be completed. This format may not be changed in any respect, except as follows:

a. All references to leases, lessees, and rents should be deleted if no leasing is proposed and the offering is exclusively for sales. In this event, the lease addendum may be disregarded.

b. Spaces provided in the format may be enlarged or extended for the purpose of providing a summary explanation of the subject under discussion but may not be used to insert promotional or advertising matter designed to counteract facts adverse to the interests of the buyer or lessee.

c. Questions on the Property Report must be answered in concise, plain language but should disclose all pertinent facts.

d. The Property Report shall contain information in addition to that elicited by the questions appearing therein if at any time it appears to the Secretary that the inclusion of such additional information is necessary or appropriate in the public interest or necessary for the protection of purchasers or necessary to make the required statements not misleading in the light of the circumstances under which they are made.

2. The Property Report, as filed with the Statement of Record and in final form to be given to prospective purchasers, shall be on good quality unglazed, white or pastel paper, approximately 8½ by 11 inches in size with margins in final form to be not less than 1 inch at the top, 1 inch at the sides, and one-half inch at the bottom. It shall be in blue, blue-black or black ink, and the type size shall not be smaller than 10 point leaded type of uniform font and in an easily readable style.

3. The final printed version of the property report shall be verbatim to that found effective with this Office. Also, it shall have no covers, pictures, emblems, logograms, or identifying insignia. The first page of the property report shall begin with the words "Property Report". It shall include the notice and disclaimer, paragraph 1., and paragraph 2.a. effective date of property report _____ and a receipt as prescribed in the next paragraph. The second page shall begin with paragraph 2.b. The remainder of the property report shall be prepared in a sequential manner as required by this section.

4. The notice and disclaimer shall be printed in the first 8½ inches of the first

page (cover sheet) of the Property Report and shall be in a form nearly identical to that printed on the next full page of this publication, with the additional requirement that the following shall be overprinted on that page in centered capital letters in light *red* type of the style used to mark sample documents, in letters one-half inch in size with ½-inch spaces between lines:

PURCHASER
SHOULD READ
THIS DOCUMENT
BEFORE SIGNING
ANYTHING

5. The last 2½ inches of the front page shall be composed of a receipt printed on the front of the property report. The original of the receipt shall be prepared in such a manner that it can be detached and retained by the developer after it is signed by the purchaser and so that the purchaser will also receive a copy of the receipt. This can be accomplished by designing the page so that an overlay covers the lower area of the page where the receipt is printed. The printing on the overlay and the underlying part of the page should be identical, so that a carbon can be inserted in between when the purchaser signs the receipt, then the developer can remove the overlay and keep it for his files.

6. The receipt shall be 2½ inches by 8½ inches and trimmed with a *red* border (both this border and the letter overlay referred to in preceding paragraph number 4, appear as grayed areas on the sample cover sheet for and property report) one-eighth inch in size, and it shall contain the following language:

"IMPORTANT READ CAREFULLY
Name of subdivision:
By signing this receipt you acknowledge that you have received a copy of the property report prepared pursuant to the Rules and Regulations of the Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development.

Received by _____
Street Address _____
Date _____
City _____ State_____
ZIP _____

Notwithstanding your signature by which you acknowledged that you received the Property Report you still have other important rights under the Interstate Land Sales full disclosure act."

7. The developer shall retain the original receipt for each property report. Upon demand by the Secretary, made at any time during the calendar year, the developer shall, without delay make such files available for inspection by the Secretary, or he shall file copies of such receipts as the Secretary may specify.

8. The questions and answers shall be printed in such a manner as to be readily distinguishable from each other. For example, the distinction could be shown by two type faces, type styles, type sizes, column settings or by two margin measures. No other portion of the Property Report shall be underscored, italicized, or printed in larger, bolder or different style type than the balance of the report, except where the Secretary requires or permits it as being necessary or appropriate in the public interest or for the protection of purchasers.

9. The Secretary may require or permit such additional information to be included in a Property Report or such change in the sequence or position of information required by this section as he may consider necessary or appropriate in the public interest or for the protection of purchasers.

10. The developer shall attach to and file with the Property Report submitted as part of the Statement of Record a statement in the following form:

"The proposed Property Report attached hereto contains the text in its entirety as it is intended to be reproduced for delivery to prospective purchasers of lots in the (Insert identification of subdivision and date of typing for submission to OILSR)."

11. Within 20 days of the date upon which the Statement of Record is allowed to become effective by the Secretary, 2 copies of the Property Report, in the identical form in which it will be distributed to prospective purchasers, shall be filed with the Secretary. Two copies of any subsequent reproduction, alteration, duplication or reprint of the Property Report shall be filed with and accepted by the Secretary prior to its use if such subsequent reproduction, duplication or reprint contains any change in content or form.

PROPERTY REPORT

NOTICE AND DISCLAIMER BY OFFICE OF
INTERSTATE LAND SALES REGISTRATION,
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PURCHASER

The Interstate Land Sales Full Disclosure Act specifically prohibits any representation to the effect that the Federal Government has in any way passed upon the merits of or given approval to this subdivision, or passed upon the value, if any, of the property.

It is unlawful for anyone to make, or cause to be made to any prospective purchaser, any representation contrary to the foregoing or any representations which differ from the statements in this property report. If any such representation is made, please notify the Office of Interstate Land Sales Registration at the following address:

SHOULD READ

Office of Interstate Land Sales Registration,
HUD Building, 451 Seventh Street SW.,
Washington, D.C. 20410.

Inspect the property and read all documents. Seek professional advice. Unless you received this property report prior to or at the time you enter into a contract, you may void the contract by notice to the seller.

Unless you acknowledge in writing on a waiver of purchaser's revocation rights form that you have read and understood the property report and that you have personally inspected the property prior to signing your contract, you may revoke your contract within 48 hours from the signing of your contract, if you received the property report less than 48 hours prior to signing such contract.

THIS DOCUMENT

1. Name(s) of Developer:
   Address:

BEFORE SIGNING

2. Name of Subdivision:
   Location: County, State of

(a) Effective date of Property Report:

ANYTHING

IMPORTANT READ CAREFULLY

Name of subdivision:

By signing this receipt you acknowledge that you have received a copy of the property report prepared pursuant to the Rules and Regulations of the Office of Interstate Land Registration, U.S. Department of Housing and Urban Development.

Received by .....

Street Address.....

Date .....

City..... State .....

Zip .....

Notwithstanding your signature by which you acknowledged that you received the Property Report you still have other important rights under the Interstate Land Sales Full Disclosure Act.

12. If the amendment to or the consolidation of the Statement of Record causes no change in the Property Report except the effective date of registration, the subsequent effective date of registration may be shown by overprinting on the front cover of the Property Report.

13. Answers to items in the format shall be prepared in such a manner that the introductory information will immediately inform the purchaser of any adverse effects. For example, if the answer to paragraph 5. is that the purchaser can lose his financial interest in the property this shall be clearly stated at the beginning of the answer to that paragraph. Additional information may follow introductory information. Refer to the purchaser in the second person. Do not include any statements making reference to the developer's past performance or business reputation. Proposals (as opposed to amenities already provided) may not be included in the property report unless the developer has clearly stated that they are merely

proposals and disclosed any conditions of completion (such as successful sale of lots) and whether he will be obligated or who will be obligated, if anyone. If the developer is not obligated or has not obtained documentation evidencing an abligation or commitment on the part of another person for each and every proposal stated in the Property Report he shall include the following warning in capital letters at the top of the second page of the property report.

"WARNING: THE DEVELOPER IS NOT LEGALLY OBLIGATED FOR SOME OF THE PROPOSALS WHICH HE HAS INCLUDED IN THIS PROPERTY REPORT."

The developer shall state the estimated completion date of each facility or proposal. The uninformed purchaser should be able to understand the information contained in the property report.

PART C. INSTRUCTIONS FOR ANSWERS TO PARAGRAPHS IN THE PROPERTY REPORT

The instructions below correspond to the numbered paragraphs in the Property Report:

Paragraph 2a. The effective date of registration is the date the Statement of Record becomes effective under § 1710.21. This date will be left blank in the proposed Property Report. When the developer receives notification of effectiveness from OILSR this date shall be inserted. The final printed copies of the Property Report submitted in accordance with this section must state that date. If the Statement of Record has been amended or consolidated, the date the most recent amendment to the Statement of Record or consolidation became effective shoud be used.

Paragraph 2b. The legal description of the land offered for sale shall describe the lots adequately to permit identification from the plat maps of the developer and from the public records of the county where located. If all of the lots in a particular unit of the subdivision are not being offered for sale, the legal description shall be sufficiently detailed to permit the purchaser to determine whether his lot is included in the offering. The developer shall also state the total number of lots being offered in each unit of the subdivision.

The brief legal description to be included in this paragraph shall include the number or name of the section or unit if any, the block number, if any, and the lot numbers. Any exceptions therefrom shall be listed. For example, unit 1 (or name of unit), block 5, lots 1–40, except lots 8, 15, and 21. Outlots and lots set aside for recreation or common areas should not be listed in your answer to this paragraph.

If the filing is a consolidation the developer shall include the total lots offered to date in the subdivision. The property report on the last consolidation will be the property report to be used for the sale of any lots in the subdivision. If the developer so desires he may distinguish between the offerings by using the following captions; lots in this offering; lots in previous offerings.

Paragraph 3. List the nearest large city or county seat and the population of each. List the total distance to the center of the subdivision from each and the portion of that distance which is paved and unpaved. If the subdivision is located more than 50 miles from either, list also the nearest established community or communities.

Paragraph 4.a. If there is any prohibition or penalty against the buyer recording the sales contract or lease, so state.

Paragraph 4.b. If the contract or a deed is not recorded by the developer at or immediately after the time when the purchaser signs the contract or if the title is not transferred of record to a trust or other sufficient notice to third parties placed of record the developer shall include the following language as his answer to this paragraph:

"Yes, In the absence of recording the contract or deed your right to the title of the land may be defeated by such third parties as subsequent purchasers or creditors of any person having an interest in the land." If the closing is within the criteria set forth in Section 1710.11(c)(1)(ii) of this Part and documentation of the trust or escrow and appropriate instructions to the trustee or agent is furnished in reply to Part V.A.8. of statement of record to show that the purchasers down payment will be returned if the developer cannot provide clear title at the time of closing the developer may answer as follows:

"Yes, however, your down payment will be set aside in a trust or escrow account and it will be returned to you if the developer cannot provide clear title at the time of transfer of title."

Paragraph 5. If the buyer or lessee is exposed to the risk of losing his financial interest in the property in the event of the developer's failure or bankruptcy, this fact must be made unmistakably clear in this paragraph. Explanations should include measures designed to protect the buyer's interests, if any, and they must disclose any circumstances under which the buyer would lose his financial interest in the property. If the buyer is to be protected (regardless of whether the offering includes only cash sales, or installment contracts and leases) explain fully how the buyer or lessee is to be protected against loss of his interest. If a blanket mortgage or other lien is foreclosed against the developer, will the holder of such mortgage or other lien be obligated to perform the agreement with the purchaser or lessee? If not, are, the buyer's or lessee's payments and investments in improving the property protected through an escrow or by other means? The buyer or lessee must be told of the possible consequences in the explanation of the answer to this question.

An unrecorded document is not acceptable to assure that the release clauses protect the purchaser since such a document is personal and does not run with the land. The release clause must be included in the liens of record or recorded amendments to the liens filed of record in order for them to protect the lot purchaser. If the release clauses are not included in such a recorded instrument and/or if they do not run with the land the answer to this paragraph must clearly disclose that the purchasers rights may be cut off and that the purchaser may lose his financial interest in the property.

If the developer states that the lot purchaser may pay the release price to the mortgagee, the statement shall be supported by documentation in which the mortgagee specifically agrees to accept such payment directly from the lot purchaser even though the developer is in default. The answer shall clearly state the amount of the release and inform the purchaser that the amount may be in excess of his contract payments unless there is a bona fide trust or escrow arrangement in which the purchaser's payments are set aside to pay release price before any payments are made to the developer. The documentation required by Part V.A.8. of the statement of record shall be submitted to support the statement.

Paragraph 7. a. Buyers and lessees must be told when their obligation to pay taxes, special assessments and similar charges begins. They should also be made aware of the approximate amount of buyer's or lessee's annual payments, but the items for indicating the amount of taxes and special assessments may be answered by the statement "Consult local taxing authorities."

b. If the construction of any of the proposed facilities will be financed by a property owners' association, special improvement district, or other similar organization or entity, the following information shall be included at the end of your answer to paragraph 7. of the property report.

"State whether the developer has control of the organization or entity or if any of the developers, officers, and directors or employees are also officers and directors of the organization or entity and if and when the developer's control will be relinquished. State the amount of the loan or debt, the interest and the period of time over which it will be amortized. State whether the funds of the association may be used for private purposes such as the construction of facilities on private land or to benefit sections other than the one in which the purchaser is buying."

Also include the following statement: "You will be obligated to pay the assessments for the cost of installing certain of the facilities and these costs are in addition to your payments for the lot."

c. If the developer's answer to part XI.C. of the statement of record discloses that the association or entity has not been formed, the following statement shall be included in his answer to this paragraph.

"The (state type of association or entity proposed) has not been formed. The developer's proposal lacks definition and he may not be able to carry it out."

d. If the developer's answer to part XI.C.2. of the statement of record indicates that not all of the lot owners will be required to belong to the association or be levied for assessment, the following statement shall be included in your answer to this paragraph.

"Membership in the (state the name or type of association or entity proposed) is not mandatory and some of the lot owners may not be required to pay the assessments levied by the (state the name or type of association or entity proposed). Therefore, you may have to pay a disproportionate share of the cost of operating the (state the name or type of association or entity proposed)."

Paragraph 8.b. Include all limitations upon the buyer's use or enjoyment of the property, including mineral rights reservations.

The subdivision restrictions are required to be listed in their entirety. If the restrictions are lengthy, they may be attached to the property report and incorporated by reference. If there is more than one section in the subdivision then the developer may include a general summary of the type of restrictions in the property report and attach a set of restrictions for the particular unit in which the purchase is interested.

Paragraph 8.c. The answer to this part shall list the uses consistent with the restrictions on the property. If the zoning regulations are not consistent with the restrictions on the property, so state. If the lot cannot be used for a homesite, include a statement to that effect.

i. If there is an architectual control committee or similar organization, include the following statement in your answer to this paragraph.

"The (name of entity) may alter your plans to build on or to use your lot."

ii. State who has control of the entity. If the developer has control of the entity or if any of the developers, officers, and directors or employees are also officers and directors of the organization or entity, so state. Also state when the developers control will be relinquished and include the following statement in the first paragraph of your answer to this paragraph of the property re-

port. "The developer has a controlling interest in the (state name of entity)."

iii. If your answer to part IV.D.7. of the statement of record indicates that the buyer must obtain a building permit from a state or local agency or organization before he can construct on his lot, your answer to this paragraph shall identify the agency or organization from which the permit must be obtained and it shall advise the purchaser of the necessity of obtaining the permit.

Paragraph 8.d. In answering this question the following guidelines shall be followed:

i. If your answer to part IV.A.2. or 3. of the statement of record discloses that the subdivision is affected by flooding or by a flood plain, the answer to this item shall include a summary statement of the flooding or the possible effect of the flood plain upon the subdivision. The statement shall identify the lots affected by the flood plain.

If the subdivision is located in an identifiable area of special flood hazards, state whether flood insurance is available for new construction in the area and if available the extent to which it may be required by Federal agencies. State the approximate range of the cost of such insurance and include the following statement in the answer to this paragraph of the property report. (The cost of flood insurance will vary in inverse proportion with the elevation of the lot.)

ii. Examples of unusual conditions relating to the location of the subdivision would include whether the subdivision, or any part thereof, is covered by water at any time during the year or is subject to hurricanes, tornadoes, earthquakes, mudslides, brushfires, forest fires, avalanches, volcanic eruptions, or other natural hazards. The existence, severity, and frequency of natural hazards should be fully explained. If any of the natural hazards of the type illustrated in this paragraph are present, state whether insurance against such hazards is available. State whether the area in which the subdivision is located has been formally identified by any Federal State, or local agency as being in an area subject to a special natural hazard and whether the area is or will be subject to any special land use requirements which will restrict development or entail unusual development or maintenance expense. Examples of unusual noises which might affect the subdivision would include proposed or existing industrial activity, airports or other transportation facilities, animal pens, entertainment centers, and the like.

iii. Unusual safety factors which might affect the subdivision would include any proposed or existing conditions in the area which create physical hazards such as dilapidated or abandoned buildings, unsafe construction, air or vehicular traffic hazards, danger from fire or explosion, radiation hazards, and the like. Examples of other nuisances which might affect the subdivision include noxious odors such as smoke, chemical fumes, stagnant ponds or marshes, slaughterhouses, sewage treatment facilities, and the like. Any such conditions should be fully explained identifying their origins and locations and stating whether they are proposed or existing—if existing, whether temporary (include estimate of duration) or permanent.

Paragraph 9.

a. For each recreational facility currently available, proposed, or partly completed, the developer shall complete the format as follows:

i. State the name or type of the facility.

ii. State the percentage of completion.

iii. State the estimated date of completion.

iv. State the words "Bond" or "Escrow" if such statement is supported by the documentation required by Part IX.A.5. of the statement of record. If that documentation has not been submitted, state "None".

v. State "Yes" or "No".

vi. State amount of buyer's cost or assessment and time basis for charge (i.e., annual, monthly, per use, as applicable).

If the answer to ii. is 100 percent, the answers to iii., iv., and v. will not be applicable; state "NA". At the end of the list of facilities, state who owns or will own them. If the developer has submitted documentation evidencing an obligation or commitment on the part of another person, he may include a summary statement to that effect.

b. If a facility or improvement has been installed and the required permit or license *has not been obtained and the developer has* not submitted the documentation required by Part IV.E.3. of the statement of record, the developer shall include the following statement in his answer to this paragraph:

"The (identify the permit or license) has not been obtained and there is no assurance that the lot owners will be able to use the (identify the facility or improvement)."

c. If the facility has not been installed or *completed and the answer to part IV.D.8. of* the statement of record indicated that the developer must obtain a permit or license and if the developer has not submitted the supporting documentation required by part IV.E.3. of the statement of record the answer to this paragraph shall include the following statement:

"The developer has not obtained a (permit or license, identify which) from the (identify the agency or organization which must issue the permit or license) for the construction of or installation of the (identify the facility or improvement affected). Although he has proposed to obtain the (identify the necessary license or permit) and to complete the facility he may not be able to carry out his proposal.

d. If the developer cannot submit the documentation required by part IX.A.5.b. of the statement of record, include the following statement in your answer to this paragraph of the property report:

"The developers' proposal lacks definition and he may not be able to carry it out."

e. If the developer cannot adhere to his proposed completion schedule, he shall amend his answer to this item in accordance with § 1710.23. His amendment shall include a statement of the original proposed completion date as well as the new proposed completion date.

Paragraph 10. The answers to each of the items under this paragraph shall be a concise and accurate summary of the information required to be stated in the related portion of the statement of record.

a. The developer shall list each item separately and state whether or not it is completed. If not completed, state who will complete, percentage completed, estimated completion date, whether there is any financial assurance of completion, and whether the developer is obligated to complete the item. If no arrangements have been made to assure completion of a proposed or partly completed facility (contracts supported by completion bonds or escrows, for example), include the following statement:

"The developer has not set aside any money or entered into any bond, escrow or trust arrangement to assure completion of the (facility). Accordingly, there is no assurance, other than the promise of the developer, that the (facility) will be completed."

b. If it later becomes evident that an improvement will not be completed on or before the specified date, amendments to the statement of record and property report are required. An amendment shall include a statement of the original proposed completion date as well as the new proposed completion date. The amendment shall be prepared in accordance with Section 1710.23 of this Part.

c. If the item has not been installed or completed and the answer to part IV.D.8. of the statement of record indicated that the developer must obtain a permit or license and if the developer has not submitted the supporting documentation required by part IV.E.3. of the statement of record, the answer to this paragraph shall include the following statement:

"The developer has not obtained a (permit or license, identify which) from the (identify the agency or organization which must issue the permit or license) for the construction of or installation of the (identify the facility or improvement affected). The developer may not be able to obtain the required permit or license and although he has proposed to obtain the (identify the license or premit) and to complete the facility he may not be able to carry out his proposal.

d. If the facility or improvement has been installed and the required permit or license has not been obtained, the developer shall include the following statement:

"(Identify the permit or license) has not been obtained and there is no assurance that the lot owners will be able to use the (identify the facility or improvement)."

e. If the developer has not submitted the documentation required by any of the following parts of the statement of record, he shall amend the appropriate subparagraph of paragraph 10. of the property report to include the statement set forth below.

Part of the statement of record:	*Subparagraph of paragraph 10. of the property report*
Part VII C4	a, 1 and 2
Part VIII A7h	b, 1
Part VIII E 10f	b, 5
Part VIII F 8d	b, 6

Statement to be included in the appropriate subparagraph of paragraph 10.

"The developers' proposal lacks definition and he may not be able to carry it out."

f. In addition to the above instructions, the following additional instructions shall be followed in preparing the answer to the following subparagraphs:

Subparagraph a.2.

If the supporting documentation required by part VII.C. 1. and 3. of the regulations is not submitted, the answer to this item shall include a statement that the roads have not been accepted by the local authorities and a statement of the alternate plan for maintenance of the roads within the subdivision. Where the developer states that he will maintain the roads and he has not escrowed or set aside any money to assure continued maintenance of the roads, he shall include the following statement in his answer:

"The developer has not set aside any money or entered into any escrow or trust arrangements in order to assure continued maintenance of the roads during the life of the subdivision. You may be required to pay all or part of the cost of maintaining the roads in the subdivision."

Subparagraph b.1. i. If the developer has not obtained the documentation required by part VIII.A.7.d. of the statement of record, the following statement must be made in the reply to question 10 of the property report:

"The developer has not obtained a letter or report from a cognizant health officer on the quality and purity of water. Accordingly, there is no assurance that the available water will be either pure or of acceptable quality."

ii. If an analysis of the water is submitted, it must include a statement in layman's language of whether the water is drinkable and whether it contains any unusual characteristics. This statement shall be included in

the answer to this paragraph of the property report.

iii. If water is to be provided by private well, indicate (1) estimated completion cost and (2) any other data establishing that a sufficient quantity of potable water is available to each buyer or lessee. If water is to be provided by a private utility, describe assurance for continuous service and reasonable rates.

iv. If the developer's answer to part VIII. A.2. of the statement of record indicates that the private entity has not been formed or if the developer has not submitted the supporting documentation required by part VIII.A.7. e. of the statement of record, the following statement shall be included with his answer to this subparagraph:

"The (state the name or type of association or entity proposed) has not been formed. Although the developer has proposed to form such an entity he may not be able to carry out his proposal."

v. If the developer's answer to part VIII. A.2.b. of the statement of record indicates that not all of the lot owners will be required to use the services of the company or if not all of the lot owners will be assessed for the cost of the service, the following statement shall be included in your answer to this subparagraph:

"Since the use of the service of the (state the name or type of association or entity proposed) is not mandatory, some of the lot owners may not be required to pay the assessments levied by the (state the name or type of association or entity proposed). Therefore, you may have to pay a disproportionate share of the cost of operating the water system."

vi. If the developer's answer to part VIII.A. of the statement of record or the contract or restrictive covenants indicates that: (1) A central water system will be installed in the future; (2) purchasers who wish to construct on their lot prior to the installation of the central system may use their own individual system; and (3) when the central system is installed, the purchaser will be required to connect to and/or be assessed for a portion of the cost of the central system, the developer shall include the following statement in his answer to this subparagraph of the property report:

"If you wish to use your lot prior to the installation of the central water system, you will be required to install your own individual water system and you will be required to connect to and/or will be assessed for the cost of the central water system."

The answer shall include the estimated cost of an individual system as well as the estimated cost of the central system.

vii. If the developer's answer to part VIII.A of the statement of record indicates that the central water system will be installed in the future and that the purchaser will not be able to use an individual water system prior to the installation of the central system, the developer shall include the following statement in his answer to this subparagraph of the property report:

"You will not be permitted to use individual water systems and water will not be available to your lot until after the central water system has been completed."

Subparagraph b.3. If natural gas is not available in the subdivision the answer to this paragraph shall include the following statement: "Natural gas is not available in this subdivision." The answer to this paragraph should then disclose whether an alternative fuel source such as propane or butane is available and the estimated cost of the service including storage facilities.

Subparagraph b.5. i. If no central sewage disposal arrangements are contemplated, state whether the land is suitable for the use of septic tanks, describing the results of any percolation tests. State estimated cost to buyer for septic tank.

ii. If the developer has not submitted the documentation required by part VIII.E.10.b. or if such documentation does not clearly indicate that onsite sewerage units have been approved for use of each and every lot in the subdivision, the developer shall include the following statement in his answer to this subparagraph of the property report:

"The developer has not obtained a letter or report from a cognizant health officer approving the use of an onsite sewerage disposal system on each and every lot in the subdivision. There is no assurance that you will be able to obtain a permit or approval from the health officials for the installation and use of an onsite sewerage disposal system."

iii. Where onsite sewerage disposal it to be used and the developer has made no provision for the installation of a central sanitary sewerage system, the following statement shall be added:

"The developer has made no provision for the installation of a central sanitary sewerage system, nor has the developer made any provision to set aside any money to fund the installation of such a system."

iv. If the developer's answer to part VIII.E.2. of the statement of record indicates that the developer proposes the use of a private company to provide sewage disposal within the subdivision and that the entity has not been formed and if the developer has not submitted the supporting documentation required by part VIII.E.10. c. of the statement of record, the following statement shall be included in his answer to this subparagraph:

"The (state the name or type of association or entity proposed) has not been formed. Although, the developer has proposed to form such an entity he may not be able to carry out his proposal."

v. If the developer's answer to part VIII.E.2.b. of the statement of record indicates that not all of the lot owners will be required to use the services of the company or if not all of the lot owners will be assessed for the cost of the service, the following statement shall be included in your answer to this subparagraph:

"Since the use of the services of the (state the name or type of association or entity proposed) is not mandatory, some of the lot owners may not be required to pay the assessments levied by the (state the name or type of association or entity proposed). Therefore, you may have to pay a disproportionate share of the cost of operating the sewerage disposal system."

vi. If the developer's answer to part VIII.E. of the statement of record or the contract or restrictive covenants indicates that: (1) A central sewerage system will be installed in the future; (2) purchasers who wish to construct on their lot prior to the installation of the central system will have to install their own private sewerage disposal system; and (3) when the central system is installed the purchaser will be required to connect to and/or will be assessed for the cost of the central system, the developer shall include the following statement in his answer to this subparagraph of the property report.

"If you wish to use your lot prior to the installation of the central sewerage system, you will be required to install your own individual sewerage system and you will be required to connect to and/or will be assessed for the cost of the central sewerage system."

The answer shall include the estimated cost of an individual system as well as the estimated cost of the central system.

vii. If the developer's answer to part VIII.E. of the statement of record indicates that the central sewerage system will be installed in the future and that the purchaser will not be able to use an individual system prior to the installation of the central system the developer shall include the following statement in his answer to this subparagraph of the property report:

"You will not be permitted to use an individual sewerage disposal system; sewage disposal will not be available to your lot until after the central sewerage system has been installed."

Subparagraph c.1. State whether or not there is a fire fighting force offering year-round fire protection to the individual homes in the subdivision. If not include the following statement in your answer to this paragraph:

"Fire protection is not available year-round. A fire insurance policy may not be available or the cost of obtaining such a policy may be increased."

Paragraph 11. If the developer states that the water supply will be adequate to serve the anticipated population of the area such statement must be supported by an engineer's report or hydrological survey which is to be submitted as Exhibit VIII A 7 c of the Statement of Record. If such documentation is unavailable, the answer to this question should state that the developer has not obtained an engineer's report or a hydrological survey indicating the source and quantity of water in the subdivision and accordingly, there is no assurance that a sufficient quantity of water will be available to serve the anticipated population of the area.

Paragraph 14. The number of homes occupied can be amended to reflect periodic increases subsequent to the initial filing date.

Paragraph 15.a. Include a statement as to nature of terrain (flat, rolling, hilly, mountainous, etc.), type of soil (sandy, swampy, rocky, etc.) and vegetation (cactus, trees, grass, etc.).

Paragraph 20. If the answer to any of the questions in this paragraph is no and you do not submit the documentation required by part VIII.F.7.c. of the statement of record include the following statement in your answer:

"Erosion and flooding could result in property damage and could create a health and safety hazard."

The answer to this paragraph should address the areas of local flooding caused by excessive rainfall and erosion and sedimentation which may be controlled or prevented by the application of the appropriate soil conservation principles. Information with respect to flooding caused by natural hazards and in areas identified by federal agencies as hazard areas must be discussed in paragraph 8d of the property report.

SPECIAL RISK FACTORS

The statements with respect to Special Risk Factors must be included in the property report verbatim to that set forth in the format.

FINANCIAL STATEMENTS

The statements with respect to financial statements must be included in the property report verbatim to that set forth in the format. The financial statements to be attached as Exhibit A shall be a copy of those financial statements submitted by the developer in order to comply with the requirements of Part XIV of the statement of record. The developer shall include the financial statements only. He may not include promotional material such as that usually set forth in annual reports.

SIGNATURE OF THE SENIOR EXECUTIVE OFFICER

The Senior Executive Officer or his duly authorized agent may sign the property report. Facsimile signatures may be used for purpose of reprodutcion of the property report.

Part D. Additional paragraphs to be added to the property report in special circumstances.

In the interest of consumer protection, special circumstances warrant the inclusion of additional items in the property report. This list of paragraphs shall not be interpreted to in any way limit the authority and responsibilities set forth in part B.1.d. of this section. Paragraphs in addition to those listed here shall be added whenever the circumstances justify the need for such additional paragraphs. If any of the following provisions are applicable to the filing, the applicable question and an appropriate reply shall be added as paragraph 21, et seq., immediately after question 20 of the property report.

1. If the subdivision plat map has not been recorded, the developer shall add the following additional item and an appropriate reply to the property report:

"State whether the subdivision is based on a proposed rather than a currently approved division of the land. If proposed, state whether the description of each of the lots in the offering is legally adequate for the conveyancing of the land in the political subdivision wherein the land is located."

2. In those instances where the subdivision has not been approved by the local authorities, the developer shall add the following additional item and an appropriate reply to the property report:

"State whether the subdivision must be approved by the local authorities before it is platted of record. If yes, and the subdivision plat has not been approved by the local authorities, or if the subdivision has not been platted of record, you are advised as follows: The local authorities may require significant alterations before they will approve the proposed use of the land. Zoning requirements may prevent the land from being used for the purpose for which it is currently being sold."

3. Where the financial information submitted by the developer to satisfy the requirements of part XIV.A. of the statement of record indicates a deficit in retained earnings or an operating loss during the last fiscal year, the following item shall be added to the property report:

"State whether or not the developer has a deficit in retained earnings or has experienced an operating loss during the last fiscal year. Yes or no. If yes, your attention is directed to those items in the property report wherein the developer may have promised to complete certain facilities or to discharge financial obligations."

4. If the developer is a newly-formed corporation, it shall add the following paragraph and an appropriate reply to its property report.

"State whether the developer is a newly formed corporation. Yes or no. If yes, state the effect which the heavy expenditures necessary to begin a land development sales operation will have on the developer's earnings."

5. If the certified opinion required by part XIV. of the statement of record is qualified, the developer shall add the following paragraph to his property report.

"State whether the accountant qualified his opinion on the financial statements. Yes or no. If yes, your attention is called to the copy of that opinion in exhibit A of this property report."

6. If the developer's sales contract has reserved the right to encumber the land subsequent to the signing of the contract, add the following paragraph and an appropriate reply to the property report.

"Does the seller have the right to encumber the purchaser's lot by a mortgage or mortgages during the continuance of the contract of sale? Yes or no. If yes, you may not be able to obtain a clear title to your lot regardless of whether the contract is recorded."

7. If the answer to part II.C. indicates that the subdivision or any of the parties involved in the subdivision have been or are parties to any disciplinary proceedings, bankruptcies or litigation which will materially affect the operation of the subdivision include the following paragraph and an appropriate reply in the property report.

"State whether the subdivision or any of the parties involved in the development of the subdivision have been or are parties to disciplinary proceeding, bankruptcies or litigation which may materially affect lot purchasers in this subdivision."

8. For all foreign filings, the following questions should be added to the property report and answered appropriately:

a. "State whether or not the owner of the subdivision is a foreign corporation. Yes or No. If yes, you may have to seek legal remedy in the courts of a foreign country should it become necessary to enforce this contract."

b. "State whether the land is located in a foreign country. Yes or No. If yes, the laws and constitution of the United States may not be applicable."

c. "State whether or not it is necessary for an alien to obtain a license granted by the Government of (insert the name of the government wherein the property is located) in order to acquire title to a lot in the subdivision."

d. "State whether or not it is necessary for an alien to obtain a work permit, license to do business, or similar document from the Government of (insert the name of the government wherein the property is located) before he will be able to reside, work, own and/or manage a business in (insert the name of the country wherein the property is located). If so, describe the procedures for obtaining such a document and state the length of time for which it will be effective."

§ 1710.115 State property report disclaimer.

If the developer is filling with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, pursuant to § 1710.25, the following statement must be delivered to each purchaser simultaneously with the delivery of the State property report:

STATE PROPERTY REPORT DISCLAIMER

NOTICE AND DISCLAIMER BY OFFICE OF INTERSTATE LAND SALES REGISTRATION, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development, has accepted this (name of State) (name of property report, e.g., public offering statement, subdivision report) as the property report on this subdivision.

The Interstate Land Sales Full Disclosure Act specifically prohibits any representation to the effect that the Federal Government has in any way passed upon the merits of, or given approval to this subdivision, nor passed upon the value, if any, of the property. It is unlawful for anyone to make, or cause to be made to any prospective purchaser any representation contrary to the foregoing or any representation which differs from the statement in this property report. If any such representations are made, please notify the Office of Interstate Land Sales Registration at the following address:

Office of Interstate Land Sales Registration, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410.

Inspect the property and read all documents. Seek professional advice.

Unless you received this property report prior to or at the time you enter into a contract, you may void the contract by notice to the seller.

Unless you acknowledge in writing on a waiver of purchaser's revocation rights form that you have read and understood the property report and have personally inspected the lot prior to signing your contract, you may revoke your contract within 48 hours from the signing of your contract if you received the property report less than 48 hours prior to signing such contract.

Effective with the Office of Interstate Land Sales Registration on _____.

The above disclaimer shall be prepared on the top 8½ inches of an 8½ by 11 inch page. The page shall be prepared in the format required by section 1710.110, part B. 2., 4., 5. and 6.

§ 1710.120 Statement of Record—State filing.

If the developer is filling pursuant to § 1710.25, there shall be filed with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, a statement as follows:

SECTION I *State Filings.* The following information shall preface the State statement of record or similar instrument and shall be done in accordance with the format and general instructions set forth in § 1710.105 for Part I. Administrative Information, Part II. Developers and Holders of Ownership Interest in Land, and Part III, Identity of Interest in more than one filing.

SEC. II. A. Submit all of the information, documentation, and certifications or affirmations submitted to the State.

B. The contracts or agreements must contain the language required by Part VI.C.1. of § 1710.105.

C. Consolidation—Incorporation by Reference: If a filing is for an offering of lots to be sold pursuant to a common promotional plan and there has been an earlier filing with OILSR for lots offered under the same promotional plan and if the State has approved a consolidation to such filing, the consolidated material, as approved, shall be filed with the Secretary. The OILSR number shall appear at the top of each page of the material submitted. Any such filing shall be made with the Secretary within 15 days after it becomes effective under the applicable State laws and shall meet the requirements of § 1710.27 of this part.

SEC. III. *Affirmation.* I hereby affirm that I am the developer of the lots herein described or will be the developer at the time lots are offered for sale or lease to the public, or that I am the agent authorized by such developer to complete this statement (if agent, submit written authorization to act as agent);

That the statements contained in this Statement of Record and any supplement thereto, together with any documents submitted herewith, are full, true, complete, and correct;

That I have complied with the land development and disclosure requirements of the State of _____ (State of filing);

That the material submitted is a true and accurate copy of all the material filed with

and accepted by the State of _____ _____ (State of filing); and

That the fees accompanying this application are in the amount required by the rules and regulations of the Office of Interstate Land Sales Registration.

_____ (Date)	_____ (Signature)
_____ (Corporate seal if applicable)	_____ (Title)

WARNING: Section 1418 of the Housing and Urban Development Act of 1968 (82 Stat. 598, 15 U.S.C. 1717) provides: "Any person who willfully violates any of the provisions of this title or of the rules and regulations or any person who willfully, in a Statement of Record filed under, or in a Property Report issued pursuant to, this title, makes any untrue statement of a material fact or omits to state any material fact * * * shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both."

§ 1710.125 Partial Statement of Record—request for exemption.

Requests for an exemption order or an exemption advisory opinion pursuant to § 1710.14 or § 1710.15 shall be prepared in accordance with the following instructions:

INSTRUCTIONS FOR COMPLETION OF PARTIAL STATEMENT OF RECORD—REQUEST FOR EXEMPTION

The partial Statement of Record shall be prepared in the manner shown below and shall contain the information requested, as follows:

Employer's IRS No._____
Developer _____
Owner _____

STATEMENT OF RECORD

Name of subdivision_____
Location _____
Name of developer_____
Developer's address_____
Authorized agent_____
Authorized agent's address_____

Part I. Administrative Information, shall be filed in the form set forth in § 1710.105 followed by the affirmation and agreement as set forth below:

The filing of this information does not preclude a developer from filing a complete Statement of Record. If the developer files the material necessary to complete the Statement of Record, the date of filing shall be the date the complete Statement of Record is received by the Secretary.

AFFIRMATION AND AGREEMENT

I hereby affirm that I am the developer of the lots herein described or will be the developer at the time the lots are offered for sale or lease to the public, or that I am the agent authorized by such developer to complete this statement (if agent, submit written authorization to act as agent);

That the statements contained in this partial Statement of Record and any supplement thereto, together with any documents submitted are full, true, complete, and correct;

That, if this request is filed pursuant to 24 CFR 1710.14(a) (2) the developer hereby affirms and represents to the Secretary that the facts, affirmations and method of operation are within the requirements of 24 CFR 1710.14(a) (2) subparagraphs (i), (ii), (iii), (iv), and (v);

That the fee accompanying this application is in the amount required by the regulations of the Office of Interstate Land Sales Registration;

That I agree that this filing is a partial Statement of Record and that the receipt of this filing by the Secretary shall not be the date of filing of a Statement of Record for the purpose of determining the effective date thereof; and

That if the Secretary advises that the offering is not exempt, I agree to file the remaining portions of the Statement of Record as set forth in § 1710.105 of these rules and regulations prior to any offering and that the date of the receipt of the complete Statement of Record by the Secretary shall be the date of filing for the purpose of determining the effective date of the Statement of Record.

_____ (date)	_____ (signature)
_____ (corporate seal if applicable)	_____ (title)

WARNING: Section 1418 of the Housing and Urban Development Act of 1968 (82 Stat. 598, 15 U.S.C. 1717) provides: "Any person who willfully violates any of the provisions of this title or the rules and regulations prescribed pursuant thereto * * *, shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both."

(Sec. 1419, 82 Stat. 598, 15 U.S.C. 1718, Secretary's delegation published 36 F.R. 5006)

PART 1715—ADVERTISING, SALES PRACTICES, POSTING OF NOTICES OF SUSPENSION

Subpart A—Advertising

Subpart B—Sales Practices

Subpart C—Posting of Notice of Suspension

AUTHORITY: The provisions of this Part 1715 are issued under sec. 1419 of the Interstate Land Sales Full Disclosure Act, 82 Stat. 598; 15 U.S.C. 1718.

Subpart A—Advertising

§ 1715.5 False or misleading advertising unlawful.

(a) In selling or leasing or offering to sell or lease any lot in a subdivision it shall be unlawful for any developer or agent, directly or indirectly, to prepare, authorize, use, direct, or aid in the publication, distribution, circulation, broadcast, or telecast of any advertisement concerning subdivisions when such advertisement contains any statement or pictorial representation of any kind (1) which is or would be false or misleading or (2) which omits any statement or pictorial representation of any kind necessary to make the statements or pictorial representations made, in the light of the circumstances under which they made, not misleading or (3) which differs materially from the information contained in the statement of record or property report filed pursuant to § 1710.-20 of this chapter, or (4) which differs materially from the information contained in a statement of reservations, restrictions, taxes, and assessments filed pursuant to §§ 1710.11 and 1710.102 of this chapter.

(b) Whenever it shall appear to the Secretary that any developer or agent is engaged or about to engage in any action made unlawful by this section, he may use any or all of the powers conferred upon him by § 1415 of the Interstate Land Sales Full Disclosure Act.

(c) Nothing in this section shall be construed to subject to civil remedies or criminal penalities any newspaper or periodical publisher, job printer, broadcaster, or telecaster, or any of the employees thereof, for violations of this section unless the publisher, printer, broadcaster, or telecaster (1) has actual knowledge of the falsity of the advertisement or (2) has any interest in the subdivision advertised or (3) also serves directly or indirectly as the advertising agent or agency for the developer.

§ 1715.10 Advertising disclaimer; subdivisions registered and effective with HUD.

(a) On all printed advertising material and literature used in connection with the sale or lease of lots in a subdivision for which an effective statement of record on file, the following disclaimer statement shall appear at the bottom of the front page thereof or at the bottom of all single page advertisements or newspaper advertisements in type of at least 10 point font.

Obtain HUD property report from developer and read it before signing anything. HUD neither approves the merits of the offering nor the value of the property as an investment, if any.

(b) In lieu of the statement required in paragraph (a), above, in all classified type advertisements not more than 5 inches long and not more than one column in print wide the following statement may be used and shall be set in type of at least 6 point font.

Obtain HUD property report from developer and read it before signing anything. HUD neither approves the merits of the offering nor the value of the property as an investment, if any.

§ 1715.15 Advertising standards and guidelines.

The following standards, while not deemed to be all inclusive, shall be used in the process of evaluating all advertising and sales presentations or representations to determine whether there is a violation of the act or of § 1715.5;

(a) All advertising must not be inconsistent with the information contained in the property report. Advertising shall not misrepresent the facts or create misleading impressions or inferences.

(b) Advertisements shall not use artists' sketches to portray proposed improvements or nonexistent scenes without an indication that such portrayal is an artist's sketch and that the improvements are proposed or that the scenes do not exist. Artists' conceptions of existing improvements or scenes must be representative and state that such rendering is an artist's conception.

(c) Use of photographs portraying scenes not actually on the advertised land is prohibited unless it is clearly indicated that such scene is not on the advertised property and the actual distance in miles from said advertised land is given.

(d) Use of statements, photographs, relating to facilities for recreation, sports, or other conveniences which are not presently in existence on the lands advertised is prohibited unless it is clearly stated that such "facilities are not on said lands" and the distance thereto in miles, or that such facility is "merely proposed."

(e) Advertising shall not refer to property as waterfront unless the property being offered actually fronts on a canal or other body of water.

(f) Land or lots offered shall not be represented as offering quick, immediate, certain, or specific profits. Offerings for speculative purposes shall be so represented in type of equal size to other statements.

(g) Advertising shall not contain statements concerning future price increases by the subdivider which are not specific as to amount and as to the date of the announced increase. Any such date shall be in the reasonable future and the increased price shall be maintained for a reasonable length of time.

(h) Advertising shall not contain asterisks or any other reference symbol as a means of contradicting or substantially changing any previously made statement or as a means of obscuring material facts.

(i) Advertising shall not use names or trade styles which imply that they are nonprofit research organizations, public bureaus, groups, etc., when such is not the case. Advertising of such an organization shall be prohibited when the true nature of the plan of sale or ownership is misrepresented or concealed.

(j) Advertising shall not use such terms as "minutes away," "short distance," "only miles," and "near" and terms of similar import to indicate distance unless the actual distance in road miles is used in conjunction with such terms.

(k) Use of maps to show proximity to other communities is prohibited unless such maps shall be drawn to scale and scale included, or the specific road mileage appears in easily readable print.

(l) The word "guarantee" or phrase "guaranteed refund" shall not be included in advertising unless the refund is unconditional.

(m) Advertising which indicates the size of the lot offered, shall include the amount of land available for use by the purchaser after all easements except for utilities to which his property may be subject have been deducted. If the property is subject to easements which are unusual in size, then this fact shall also be noted. All maps, plats, representations, or drawings shall show either the dimensions of the tract or the amount of acreage after deductions of easements.

(n) Maps, plats, or representations shall clearly indicate the date when the improvements will be completed. If completion dates are over a period of years, then a series of shadings, outlines, or coding may be used to indicate dates of completion.

(o) Lots shall not be advertised as "free" if the prospective purchaser is required to give any consideration whatsoever, and lots shall not be advertised for "closing costs only" when the closing costs are substantially more than normal, or when an additional lot or lots must be purchased at a higher price or to render the "free" lot usable.

(p) Advertising shall not make reference to pre-development sales at a lower price because the land has not yet been developed unless there are plans of development, and a subdivision plat has been recorded, or reasonable assurance is available that such plan will be completed.

(q) Advertising which makes reference to "roads" and "streets" shall make affirmative disclosure as to the nature of such roads and streets; i.e., paved, gravel, dirt, etc. All streets and roads reflected on subdivision maps used in connection with an advertising program will be presumed to be of an all-weather graded gravel quality or higher and will be presumed to be traversable by conventional automobile under all normal weather conditions unless otherwise reflected upon the map.

(r) Legal access referred to in advertising shall be accompanied by phraseology to indicate whether the access is presently usable as a passage for conventional automobiles.

(s) The existence of a road easement or a road right-of-way shall not be advertised unless such easement or right-of-way has been dedicated to the public or to appropriate property owners or to the appropriate property owners' association or similar organizations or entities and recorded in the public records of the county in which the property is located.

(t) Advertising shall not contain "before" and "after" pictures for comparative purposes without an accurate, detailed, comparative analysis of such pictures.

(u) Reprints of published material shall not be used unless the information contained in the reprint is representative, truthful, relevant, and pertinent to the subdivision being offered.

(v) Advertising shall not make comparison of land values unless it is clear who is making the comparison and the comparison is relevant and fair.

(w) Advertising shall not make reference to a public facility unless money has been budgeted for actual construction of such facility and is available to the public authority having the responsibility of construction or an actual disclosure of the existing facts concerning a public facility is made.

(x) Advertising shall not refer to public facilities under study, unless it is fully disclosed that the facility is merely proposed and under study and provided that no reference is made to the location or route of the facility until such has been decided by the responsible public authority.

(y) Advertising which refers to the purchase price of any lot, parcel, or unit of land must also include any additional compulsory assessments or costs to the prospective purchaser.

(z) Advertising which makes reference to property exchange privileges must state clearly any qualifications concerning such exchange privileges. If advertising makes reference to promised improvements for which the prospective purchaser will be assessed, such facts will be clearly disclosed.

(aa) Advertising shall not describe land as a homesite or building lot if potable water is not available or will not be available at reasonable costs; further, there must be reasonable assurance that a septic tank will operate or a sewer system is in existence unless facts to the contrary are clearly and conspicuously included in each such advertisement pertaining to that property.

(bb) Advertising shall be considered misleading if it infers or implies that the subdivider will resell or repurchase the property being offered at some future time unless the subdivider has made an undertaking to resell or repurchase property for or on behalf of purchasers and has the ability to perform this undertaking.

(cc) Advertising shall be deemed misleading if it represents that the property being offered for sale may be subdivided or resubdivided unless it includes all necessary and relevant information regarding the cost and feasibility of future subdividing.

(dd) Where a community is referred to in advertising, the material shall state the mileage from the approximate geographical center of the subdivided lands in road miles to the approximate downtown or geographical center of the community.

(ee) Advertising of improvements to the subdivided lands which are not completed shall not be made unless it is stated in unmistakable terms that the improvements are "merely proposed" or "under construction" and the "date of the promised completion" clearly indicated.

(ff) Advertising which embraces the term "canal" or "canals" shall contain a full disclosure of the width and depth of water in such "canal" or "canals."

(gg) Certificates shall not be distributed indicating a discount on property that appears to effect a price reduction from the advertised price. Discounts may be given for quantity purchases, cash, larger payments, or for any reasonable basis. (The purpose of this standard is to eliminate the use of fictitious pricing and illusory discounts.)

(hh) When the company offers more than one subdivision in a single advertising piece, or an offering exceeding 5 miles in length or width, advertising shall carry a disclaimer as follows:

Distances indicated are from the location mentioned to (clubhouse, center of subdivision, or other pertinent or prominent points), each purchaser should check the exact location of the property being offered him in relation to the clubhouse, subdivision or other prominent locations.

(ii) Advertising shall not use statements, photographs, or sketches portraying the use to which advertised land can be put unless the land can be put to such use without unreasonable cost.

(jj) Implied representations and presumptions. Any inference reasonably to be drawn from advertising or promotional material will be considered to be a positive assertion unless the inference is negated therein in clear and unmistakable terms, or unless adequate safeguards have been provided by the owner to reasonably guarantee the occurrence of the thing inferred. Advertising or promotional material will be judged on the basis of the positive representations contained therein and the reasonable inferences to be drawn therefrom. Unless the contrary affirmatively appears in promotional material, the following inferences will be assumed to have been intended in each case mentioned; to wit:

(1) When homesites or building lots are advertised, the inference is that said lots are immediately usable for such purpose without any further improvement or development by the prospective purchaser and that there is an adequate potable water supply available; that the lands have been approved for installation of septic tanks or that an adequate sewage disposal system is installed; that no further major draining, filling, or subsurface improvement is necessary to construct dwellings, except for reasonable preparation for construction; that the individual homesites or building lots are accessible by automobile without additional expense to the purchaser over existing right-of-way and that no other fact such as if the property, or any portion of the property, is regularly or periodically flooded or substantially covered by standing water for extended periods of time during the year or the land is without available legal access to the purchaser or circumstance exists to prohibit the use of the lots as a homesite or building lot.

(2) When title insurance, abstract, or attorney's opinion is advertised, the inference is that the seller can and will convey fee simple title free and clear of all liens, encumbrances, and defects except those which are disclosed in writing to the prospective purchaser prior to purchase.

(3) When lands are advertised as usable for any particular purpose other than homesites or building lots, the inference is that said lots or parcels are immediately accessible and usable for such purpose by purchasers without the necessity for draining, filling, or other improvement prior to putting the lands to use for such purpose, except for reasonable preparation for construction, and that no fact or circumstance exists to prohibit the immediate use of said lands for such purposes.

(4) When any recreational facility, improvement, accommodation, or privilege is advertised, the inference is that the same is on the lands at the present time and available without restriction to the purchasers of lots at no additional expense.

(5) When improvements are advertised, the inference is that the same are completed.

Any statements required to be made by this section shall be made in type of the same size as the representations made in the advertising.

Subpart B—Sales Practices

§ 1715.25 Sales practices; when unlawful.

Sales practices shall include any act by the developer or his agents to induce a purchaser to buy or lease a lot. The developer or any of his agents or employees shall not make any representations which would violate any provision of the Act. The criteria set forth as advertising guidelines in § 1715.15 shall apply to any sales presentations or representations. In addition to the above criteria the following practices shall be deemed to be a violation of the Act.

(a) The use of the developer's personnel to repeatedly announce that lots are being sold when in fact this is not the case or to make repetitive announcements of the same lot being sold.

(b) Giving the property report to a purchaser along with other materials when this is done in such a manner as to conceal the property report from the purchaser.

(c) Giving a contract to the purchaser or encouraging him to sign anything before delivery of the property report.

(d) Referring to the property report or offering statement as anything other than a property report or offering statement.

Subpart C—Posting of Notice of Suspension

§ 1715.50 Posting of notice of suspension.

(a) Whenever a suspension order has been issued under § 1710.45(b) of this chapter, the Secretary may, if deemed necessary in the public interest and for the protection of purchasers, require the posting of a sign or signs in a prominent place at the main or most frequently used entrance to the subdivision and at the place or places where prospective purchasers are taken to sign purchase contracts, that indicate the fact that the subdivision or a section thereof is covered by a suspension order and sales made during suspension are unlawful. Appropriate signs will be supplied by the Secretary and posted by the developers. Posting will be done insofar as practicable, in such a manner as not to damage the object or structure to which they are affixed. The developer will be responsible for keeping the signs properly posted. Failure to do so will be a violation of these regulations and it will subject the developer to the penalties set forth in section 1418 of the Act. Developer shall forward to the Secretary a photograph of the posted sign within 10 days after it has been posted.

(b) The Secretary may, where the developer makes a sales presentation or conducts a promotional activity at a location away from the subdivision, require the posting of signs at such locations.

PART 1720—FORMAL PROCEDURES AND RULES OF PRACTICE

Subpart A—Rules and Rule Making

Subpart B—Filing Assistance

Subpart C—Formal Investigations

Subpart D—Proceedings and Hearings

AUTHORITY: The provisions of this Part 1720 are issued under sec. 1419 of the Interstate Land Sales Full Disclosure Act, 82 Stat. 598; 15 U.S.C. 1718.

Subpart A—Rules and Rule Making

§ 1720.1 Scope of rules in this subpart.

The rules in this subpart apply to and govern procedure for the promulgation of rules and regulations under the Act. The rules in this subpart do not apply to interpretative rules, general statements of policy, rules of organization procedure, or practice or in any situation in which the Secretary for good cause finds (and incorporates the findings and brief statement of the reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest.

§ 1720.5 Initiation of proceedings.

Proceedings for the issuance of rules and regulations may be commenced by the Secretary upon his own initiative or pursuant to petition filed with the Secretary by any interested person stating reasonable grounds therefor. If the Secretary determines that a petition is not sufficient to warrant the holding of a rule making proceeding, the petitioner shall be promptly notified and given an opportunity to submit additional data. Procedures for the amendment or repeal of a rule or regulation are the same as for the issuance thereof.

§ 1720.10 Investigations and conferences.

(a) In connection with a rule making proceeding, the Secretary may conduct such investigations, make such studies and hold such conferences as he may deem necessary. All or any part of such investigations may be conducted under the provisions of Subpart C of this part.

(b) At any such conferences, interested persons may appear to express views and suggest amendments relative to proposed rules and regulations.

§ 1720.15 Notice.

General notice of proposed rule making shall be published in the FEDERAL REGISTER and, to the extent practicable, otherwise made available to interested persons. Such notice shall include a statement of the time, place and nature of the proceeding; reference to the authority under which the rule or regulation is proposed; either the terms or substance of the proposed rule or regulation or a description of the subjects and issues involved and the manner in which interested persons shall be afforded the opportunity to participate in the proceeding. If the rule making proceeding was instituted pursuant to petition, a copy of the notice shall be served on the petitioner.

§ 1720.20 Promulgation of rules and regulations.

The Secretary, after consideration of all relevant matters of fact, law, policy and discretion, including all relevant matters presented by interested persons in the rule making proceedings, shall adopt and publish in the FEDERAL REGISTER an appropriate rule or regulation together with a concise general statement of its basis and purpose and any necessary findings; or the Secretary shall give other appropriate public notice of disposition of the rule making proceeding.

§ 1720.25 Effective date of rules and regulations.

The effective date of any rule or regulation or of an amendment, suspension, or repeal of any rule or regulation shall be specified in a notice published in the FEDERAL REGISTER. Such date shall not be less than 30 days after the date of such publication unless the Secretary specifies an earlier effective date for good cause found and published with the rule or regulation.

Subpart B—Filing Assistance

§ 1720.30 Scope of this subpart.

The rules in this subpart apply to and govern procedures under which developers may obtain prefiling assistance and be notified of and permitted to correct deficiencies in the Statement of Record.

§ 1720.35 Prefiling assistance.

Persons intending to file with the Office of Interstate Land Sales Registration may receive advice of a general nature as to the preparation of the filing, including information as to proper format to be used and the scope of the items to be included in the format. Inquiries and requests for informal discussions with staff members should be directed to the Administrator, Office of Interstate Land Sales Registration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20411.

§ 1720.40 Processing of filings.

(a) Statements of Record and accompanying filing fees will be received on behalf of the Secretary by the Administrator, Office of Interstate Land Sales Registration, for determination of (1) completeness of the statement, (2) adequacy of the filing fee and (3) adequacy of disclosure. Where it appears that all three criteria are satisfied and it is otherwise practicable, acceleration of the effectiveness of the Statement of Record will normally be granted.

(b) Filings intended as Statements of Record but which do not comply in form with §§ 1710.105 and 1710.120 of this chapter, whichever is applicable, and Statements of Record accompanied by inadequate filing fees will not be accepted as Statements of Record within the meaning of the Act and will not be effective to accomplish any purpose under the Act. At the discretion of the Administrator, such filings and any moneys accompanying them may be immediately returned to the sender or after notification may be held pending the sender's appropriate response.

(c) Persons filing incomplete or inaccurate Statements of Record which are nevertheless, correct in form and accompanied by adequate filing fees will be notified and given reasonable opportunity to correct deficiencies. Failure to correct will result in the application of the suspension procedures in § 1710.45 of this chapter.

Subpart C—Formal Investigations

§ 1720.45 Scope of rules in this subpart.

(a) The rules in this subpart apply to and govern procedures for the conduct of formal inquiries and investigations undertaken by the Secretary and the manner in which persons alleged to have violated the Act or the rules and regulations may be afforded an opportunity to comply voluntarily with the Act and the rules and regulations.

(b) The Secretary or his designee may make inquiries and investigations to determine whether any person has violated or is about to violate any provision of the Act or the rules and regulations, or to aid in the enforcement of the Act, or in prescribing rules and regulations thereunder or in securing information to serve as a basis for recommending further legislation. The Secretary or his designee shall have the authority to administer oaths and affirmations in any matter under investigation.

§ 1720.55 Violations, investigations or inquiries.

In connection with a formal investigation or inquiry involving an alleged or suspected violation or threatened violation of the Act or rules and regulations, the Secretary may require or permit any person to file with him a signed statement setting forth facts and circumstances known to such person and relevant to the investigation or inquiry. The Secretary may publish or otherwise divulge information concerning any violation of the Act or the rules and regulations.

§ 1720.70 Subpoenas in investigations.

(a) The Secretary or his designee may issue subpoenas relating to any matter under investigation for any or all of the following purposes:

(1) Requiring testimony to be taken by interrogatories.

(2) Requiring the attendance and testimony of witnesses at a specfic time and place.

(3) Requiring access to, examination of and the right to copy documents, books, records, and papers.

(4) Requiring the production of documents, books, records, and papers at a specified time and place.

(b) A motion to limit or quash any such subpoena may be filed with the Secretary or his designee within 10 days after service of the subpoena, and in no event less than 72 hours prior to the return date and hour of such subpoena.

§ 1720.75 Investigational proceedings.

(a) For the purpose of hearing the testimony of witnesses and receiving documents and other data relating to any subject under investigation, investigational proceedings, as distinguished from adjudicative hearings, may be conducted in the course of any investigation including rule making proceedings under Subpart A of this part.

(b) Investigational proceedings shall be presided over by the Secretary or his designee and shall be stenographically or mechanically reported. A transcript shall be a part of the record of the investigation.

(c) Unless the Secretary or his designee determines otherwise investigational proceedings shall be public.

§ 1720.80 Rights of witnesses in investigations.

(a) Any person compelled to testify or to submit data in connection with any investigational proceedings shall be entitled to retain a copy or, on payment of lawfully prescribed costs, procure a copy of any data submitted by him and of his own testimony as stenographically or mechanically reported, except that in a nonpublic proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(b) Any witness compelled to appear in person in an investigational proceeding may be accompanied, represented, and advised by counsel as follows:

(1) Counsel for a witness may advise his client, in confidence, and upon initiative of either himself or the witness, with respect to any question asked of his client; and if the witness refuses to answer a question, then counsel may briefly state on the record if he has advised his client not to answer the question and the legal grounds for such refusal.

(2) Where it is claimed that the testimony or other evidence sought from a witness is outside the scope of the investigation, or it is claimed that the witness is privileged to refuse to answer a question or to produce other evidence, counsel for the witness may object on the record to the question or requirement and may state briefly and precisely the grounds thereof.

(3) Objections interposed under the rules in this subpart will be continuing objections throughout the course of the proceeding, and repetitious or cumulative statement of an objection or of the grounds therefore, in such cases, is unnecessary and impermissible.

(4) Counsel for a witness may not, for any purpose or to any extent not allowed by subparagraphs (1) and (2) of this paragraph, interrupt the examination of the witness by making any objections or statements on the record. Motions challenging the authority of the Secretary to conduct the investigation or the sufficiency or legality of the subpoena must have been addressed to the Secretary in advance of the proceeding. Copies of such motions may be filed with the presiding official at the proceeding as part of the record of the investigation, but no argument in support thereof will be allowed at the proceeding.

(5) Upon completion of the examination of a witness, counsel for the witness may request that on the record the presiding official permit the witness to clarify any of his answers in order that specified points of ambiguity, equivocation, or incompleteness may be corrected. The granting or denial of such request, in whole or in part, shall be within the sole discretion of the presiding official.

(6) The presiding official shall take all necessary action to regulate the course of the proceeding to avoid delay and to prevent or restrain disorderly, dilatory, obstructionist or contumacious conduct or contemptuous language. Such official shall, for reasons stated on the record, immediately report to the Secretary any instances where an attorney or witness has failed or refused to comply with his directions, lawful rules, regulations or orders in the course of the proceedings or has engaged in disorderly, dilatory, obstructionist, or contumacious conduct or contemptuous language. The Secretary or his designee may exclude the attorney or witness from further participation in the particular investigation.

§ 1720.85 Noncompliance.

Failure to comply with the Secretary's investigational process may result in action pursuant to section 1415 of the Act.

§ 1720.90 Disposition.

(a) When investigation by the Secretary indicates that corrective action is warranted, the Secretary pursuant to § 1710.45(b) (2) of this chapter may issue a suspension order: *Provided, however,* That any person being investigated may be afforded an opportunity to submit to the Secretary a proposal for disposition of the matter in the form of an executed settlement agreement complying with the requirements of § 1720.100 for consideration by the Secretary.

(b) When an investigation discloses that corrective action is not necessary or warranted in the public interest for the protection of purchasers or lessees, the investigational file will be closed. The matter may at any time thereafter be reinvestigated if circumstances so warrant.

§ 1720.100 Settlements.

(a) *Offer of settlement.*—At any time during a proceeding, parties may be afforded an opportunity to submit to the Secretary or his designee a written proposal for disposition of the matter in the form of a settlement offer.

(b) *Settlement agreements.*—When the Secretary or his designee determines the public interest will be fully safeguarded thereby he may accept an executed offer of settlement. Where the Secretary or his designee rejects an offer of settlement, the party making the offer shall be notified and the offer of settlement shall be deemed withdrawn and such offer and any documents relating thereto shall not constitute a part of the record.

Subpart D—Proceedings and Hearings

§ 1720.110 Scope of rules in this subpart.

The rules in this subpart are applicable to adjudicative proceedings which involve a hearing or opportunity for a hearing under the Interstate Land Sales Full Disclosure Act.

§ 1720.115 Applicability of sections of this subpart.

Succeeding sections of this subpart not specifically limited in applicability either to hearings conducted subsequent to a suspension notice under § 1710.45(a) of this chapter, to a notice of proceedings under § 1710.45(b) (1) of this chapter, or to hearings conducted subsequent to a suspension order issued pursuant to paragraph (2) of § 1710.45(b) of this chapter, shall apply to all such hearings.

§ 1720.120 Suspension notice under § 1710.45(a) of this chapter.

A suspension pursuant to § 1710.45(a) of this chapter shall be effected by service of a suspension notice which shall contain:

(a) An identification of the filing to which the notice applies.

(b) A specification of the deficiencies of form, disclosure, accuracy, documentation or fee tender which constitute the grounds, under § 1710.45(a) of this chapter, of the suspension, and of the additional or corrective procedure, information, documentation, or tender which will satisfy the Secretary's requirements.

(c) A notice of the hearing rights of the developer under § 1720.155, and of the procedures for invoking those rights.

(d) A notice that, unless otherwise ordered, the suspension shall remain in effect until 30 days after the developer cures the specified deficiencies as required by the notice.

§ 1720.125 Notice of proceedings pursuant to § 1710.45(b)(1) of this chapter.

A proceeding pursuant to § 1710.45 (b)(1) of this chapter is commenced by issuance and service of a notice which shall contain:

(a) A clear and accurate identification of the filing or filings to which the notice relates.

(b) A clear and concise statement of material facts, sufficient to inform the respondent with reasonable definiteness of the statements, omissions, conduct, circumstances or practices alleged to constitute the grounds for the proposed suspension order under § 1710.45(b)(1) of this chapter.

(c) Specification of a time and place at which the developer shall have opportunity for hearing.

(d) Designation of the administrative law judge appointed to preside over prehearing procedures and over the hearings.

(e) A notice that failure to file an answer or motion as provided under § 1720.140 will result in an order suspending the Statement of Record.

§ 1720.130 Suspension order under § 1710.45(b)(2) of this chapter.

A suspension pursuant to § 1710.45(b)(2) of this chapter shall be effected by service of a suspension order which shall contain:

(a) An identification of the filing to which the order applies.

(b) Bases for issuance of order.

(c) A notice of the hearing rights of the developer under § 1720.165 and of the procedures for invoking those rights.

(d) A statement that the order shall remain in effect until the developer has complied with the Secretary's requirements.

§ 1720.131 Suspension order under § 1710.45(b)(3).

A suspension pursuant to subparagraph (3) of § 1710.45(b) of this chapter shall be effected by service of a suspension order which shall contain:

(a) An identification of the filing to which the order applies;

(b) An identification of the amendment to the filing;

(c) A statement that the issuance of the order is necessary or appropriate in the public interest or for the protection of purchasers; and

(d) A statement that the order shall remain in effect until the amendment becomes effective.

§ 1720.134 Presumption of hearing request.

When an answer or motion to a notice of proceedings is timely filed, but a respondent has failed specifically to request a hearing, his filing shall be deemed to constitute such a request.

§ 1720.135 Motion for more definite statement.

Where a reasonable showing is made by a respondent of his inability to respond to the allegations in a suspension notice or a notice of proceedings, motion may be made requesting a more definite statement of the allegations before filing an answer. Such motion shall be filed with the Secretary or his designee within 5 days after service of the notice and shall specifically indicate in what manner the notice is indefinite or defective.

§ 1720.140 Time for filing answer to notice of proceedings.

(a) Within 15 days after service of the notice of proceedings, the respondent shall file with the Secretary or his designee an answer and three copies thereof signed by the respondent or his attorney. Unless a different time is fixed by the Secretary or his designee, the filing of a motion for a more definite statement of the allegations shall alter the period of time in which to file an answer as follows:

(1) If the motion is denied, the answer shall be filed within 15 days after service of the denial.

(2) If the motion is granted, in whole or in part, the more definite statement of allegations shall be filed after service of the order granting the motion and the answer shall be filed within 15 days after service of the more definite statement of allegations.

(b) If a notice of proceedings is amended, the respondent shall have 15 days after service of the amended notice of proceedings within which to file an answer thereto.

§ 1720.145 Content of answer.

An answer to a suspension notice or a notice of proceedings shall contain:

(a) A brief statement of the facts constituting each defense; and

(b) Specific admission, denial or explanation of each fact alleged in the notice, or if the respondent is without knowledge thereof a statement to that effect. Allegations not answered in this matter shall be deemed to have been admitted.

§ 1720.150 Settlements.

Parties may propose in writing, at any time during the course of a proceeding, offers of settlement which shall be submitted to and considered by the Secretary or his designee. If determined to be appropriate, the party making the offer may be given an opportunity to make an oral presentation in support of such offer. If an offer of settlement is rejected, the party making the offer shall be so notified and the offer shall be deemed withdrawn and shall not constitute a part of the record in the proceeding. Final acceptance by the Secretary or his designee of any offer of settlement will automatically terminate any proceeding related thereto.

§ 1720.155 Hearings—suspension notice pursuant to § 1710.45(a) of this chapter.

(a) A developer, upon receipt of a suspension notice issued pursuant to § 1710.45(a) of this chapter, may obtain a hearing by filing a written request in accordance with the instructions regarding such request contained in the suspension notice. Such request must be filed within 15 days of receipt of the suspension notice and must be accompanied by an answer and 3 copies thereof signed by the respondent or his attorney conforming to the requirements of § 1720.145. Filing of a motion for a more definite statement pursuant to § 1720.135 shall alter the period of time to request a hearing as follows:

(1) If the motion is denied, the request for hearing accompanied by the answer must be filed within 15 days after service of the denial.

(2) If the motion is granted, in whole or in part, the more definite statement of allegations shall be filed after service of the order granting the motion and the request for hearing accompanied by the answer shall be filed within 15 days after service of the more definite statement of allegations.

(b) When a hearing is requested pursuant to paragraph (a) of this section, such hearing shall be held within 20 days of receipt of the request. The time and place for hearing shall be fixed with due regard for the public interest and the convenience and necessity of the parties or their representatives.

(c) A request for hearing filed pursuant to paragraph (a) of this section shall not interrupt or annul the effectiveness of the suspension notice, and suspension of the effective date of the statement or amendment shall continue until vacated by order of the Secretary. Except in cases in which the developer shall waive or withdraw his request for such hearing, or shall fail to pursue the same by appropriate appearance at a hearing duly scheduled, noticed and convened, the suspended filing shall be reinstated in the event of failure of the Secretary or his designee to schedule, give notice of or hold a duly-requested hearing within the time specified in paragraph (b) of this section, or in the event of a finding that the Secretary has failed to support at such hearing the propriety of the suspension with respect to the material issues of law and fact raised by the answer. Such reinstatement shall be effective on the date on which the filing would have become effective had no notice of suspension been issued with respect to it.

§ 1720.160 Hearings—notice of proceedings pursuant to § 1710.45(b)(1) of this chapter.

(a) A developer, upon receipt of a notice of proceedings issued pursuant to § 1710.45(b)(1) of this chapter, may obtain a hearing by filing a written request in accordance with the instructions regarding such request contained in the notice of proceedings. Such a request

must be filed within 15 days of receipt of the notice of proceedings or in the case of a request for a more definite statement within 15 days after receipt of either the more definite statement or the denial thereof. The request must be accompanied by an answer conforming to the requirements of § 1720.145.

(b) When a hearing is requested pursuant to paragraph (a) of this section, a date for such hearing shall be scheduled within 20 days of receipt of the request. The time and place for hearing shall be fixed with due regard for the public interest and the convenience and necessity of the parties or their representatives.

(c) Failure to answer within the time allowed by § 1720.140 or failure of a developer to appear at a hearing duly scheduled shall result in an appropriate order under § 1710.45(b)(1) of this chapter suspending the statement of record. Such order shall be effective as of the date of issuance.

§ 1720.165 Hearings—suspension order issued pursuant to § 1710.45(b)(2) of this chapter.

(a) A developer, upon receipt of a suspension order issued pursuant to subparagraph (2) of § 1710.45(b) of this chapter, may obtain a hearing by filing a written request in accordance with the instructions regarding such request contained in the suspension order. Such request must be filed within 15 days of receipt of the suspension order and must be accompanied by an answer conforming to the requirements of § 1720.145.

(b) When a hearing is requested pursuant to paragraph (a) of this section, a date for such hearing shall be scheduled within 20 days of receipt of the request. The time and place for hearing shall be fixed with due regard for the public interest and the convenience and necessity of the parties or their representatives.

§ 1720.170 Intervention by interested persons.

(a) Upon timely application, the Secretary or his designee upon petition in writing and for good cause shown, and if deemed to be in the public interest, may permit any person to participate by intervention in the proceeding. The petition shall contain (1) the petitioner's relationship to and interest in the matters contained in the proceeding; (2) a concise statement of his position with respect to each specific issue upon which he proposes to intervene, and of the facts which he proposes to adduce in support of each such position; and (3) an assent to exercise of jurisdiction by the Department with respect to the petitioner.

(b) The Secretary or his designee shall determine the propriety of such intervention and the extent to which such intervener may participate, basing such determination upon applicable law, the directness and substantiality of the petitioner's interest in the proceeding and the effect upon the proceeding of allowing such participation.

§ 1720.175 Consolidation.

When more than one proceeding involves a common question of law or fact, the Secretary or his designee may order a joint hearing of any or all of the matters in issue in the proceedings and may make such orders concerning the proceedings as may tend to avoid unnecessary costs or delay.

§ 1720.190 Administrative law judge, powers and duties.

(a) Hearings in adjudicative proceedings shall be presided over by a duly qualified administrative law judge who shall be designated by the Secretary in a notice to the parties in the proceeding.

(b) Administrative law judges shall have the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of proceedings and to maintain order. They shall have all powers necessary to those ends including all powers granted under 5 U.S.C. 556(c), and also including but not limited to the following:

(1) To administer oaths and affirmations.

(2) To issue subpoenas and orders requiring access.

(3) To take or to cause depositions to be taken.

(4) To rule upon offers of proof and receive evidence.

(5) To regulate the course of the hearings and the conduct of the parties and their counsel.

(6) To hold conferences for simplification and clarification of the issues or any other purpose.

(7) To consider and rule upon, as justice may require, all procedural and other motions appropriate in an adjudicative proceeding, including motions to open defaults.

(8) To make and file initial decisions.

(9) To certify questions to an appeals officer on the Interstate Land Sales Board for his determination.

(10) To take any action authorized by the rules in this part or other appropriate action.

§ 1720.195 Prehearing conferences.

(a) In any proceeding in which it appears that such procedure will expedite the proceeding, the administrative law judge may direct or allow the parties or their representatives to appear before him for a conference to consider: (1) Simplification and clarification of the issues; (2) necessity or desirability of amendments to the pleadings; (3) stipulations and admissions of fact and the contents and authenticity of documents; (4) expedition in the discovery and presentation of evidence; (5) matters of which official or judicial notice will be taken; and (6) such other matters as may aid in the orderly and expeditious disposition of the proceeding, including disclosure of the names of witnesses and of documents or other exhibits which will be introduced in evidence in the course of the proceeding. Prior to the conference, the administrative law judge may direct or allow the parties or their representatives to file memorandums specifying the issues of law and fact to be considered.

(b) If the circumstances are such that a conference is impracticable, the administrative law judge may request the parties to correspond with him for the purpose of accomplishing any of the objectives set forth in this section.

§ 1720.200 Reporting—prehearing conferences.

Prehearing conferences shall be stenographically or mechanically reported; and the administrative law judge shall prepare and file for the record a written summary of the action taken at the conference, which shall incorporate any written agreements or stipulations made by the parties at the conference or as a result of the conference.

§ 1720.205 Amendments and supplemental pleadings.

(a) *Amendments.*—The administrative law judge may, upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, allow appropriate amendments to pleadings whenever determination of a controversy on the merits will be facilitated thereby.

(b) *Variances of proof.*—When issues not raised by the pleadings but reasonably within the scope of the suspension notice or notice of proceedings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings; and such amendments of the pleadings as may be necessary to make them conform to the evidence and to raise such issues shall be allowed at any time.

(c) *Supplemental pleadings.*—The administrative law judge may, upon reasonable notice and such terms as are just, permit service of a supplemental pleading setting forth transactions or events which have occurred since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 1720.210 Policy.

(a) All hearings in adjudicative proceedings shall be public.

(b) Hearings shall proceed with all reasonable speed; and, insofar as practicable, shall be held at one place and shall continue without recess or suspension until concluded. The administrative law judge shall have the authority to order brief intervals of the sort normally involved in judicial proceedings and, in unusual and exceptional circumstances for good cause stated on the record, he shall have the authority to order hearings at more than one place and to order brief intervals to permit discovery necessarily deferred during the prehearing procedures.

§ 1720.215 Ex parte communications.

(a) No person shall communicate with any administrative law judge or any ap-

peals officer on the Interstate Land Sales Board either directly or indirectly concerning any pending proceeding unless prior to or simultaneously with such communication its contents are disclosed in detail to all persons interested in the proceeding; nor shall any administrative law judge or appeals officer request or consider any such unauthorized ex parte communication. This prohibition shall not apply to a simple request for information respecting the status of the proceeding, nor to any ex parte communication expressly authorized by these rules.

(b) Any administrative law judge or appeals officer, who receives an ex parte communication which he knows or has reason to believe is unauthorized, shall promptly place the communication, or its substance, in the public file and shall inform all persons interested in the proceeding of its existence and general contents. Facts or arguments so communicated shall not be taken into account in deciding any matter in issue unless such facts or arguments shall be brought properly before the administrative law judge.

(c) Opportunity to answer allegations or contentions contained in an unauthorized ex parte communication may be afforded any interested person upon his motion for leave to do so, wherever such leave will operate to assure a fair hearing or decision.

§ 1720.220 Disqualification of administrative law judge.

(a) When an administrative law judge deems himself disqualified to preside in a particular proceeding, he shall withdraw therefrom by notice on the record and shall notify the Secretary of such withdrawal.

(b) Whenever any party believes that the administrative law judge should be disqualified to preside, or to continue to preside, in a particular proceeding, such party may file with the administrative law judge a motion that the administrative law judge disqualify and remove himself. Such motion shall be supported by affidavits setting forth the alleged grounds for disqualification. If the administrative law judge does not disqualify himself, he shall proceed with the hearing and the question of fair hearing and due process may be raised on appeal to the appeals officer on the Interstate Land Sales Board who shall determine the matter as a part of the record and decision.

§ 1720.225 Failure to comply with administrative law judge's directions.

Any party who refuses or fails to comply with a lawfully issued order or direction of an administrative law judge may be considered to be in contempt of the Secretary. The circumstances of any such neglect, refusal or failure, together with a recommendation for appropriate action, shall be promptly certified by the administrative law judge to the Secretary or his designee who may make such orders in regard thereto as the circumstances may warrant.

§ 1720.230 Motions—filing requirements.

During the time a proceeding is before an administrative law judge, all motions therein shall be in writing; and, except as otherwise provided in this part, a copy of each motion shall be served on the other party or parties. Such motions shall be signed, addressed to and filed with the administrative law judge and shall be ruled upon by him. The provisions of this section need not apply to motions made during the course of a hearing.

§ 1720.235 Answers to motions.

Within 7 days after service of any written motion, an opposing party shall answer or shall be deemed to consent to the granting of the relief asked for in the motion. The moving party shall have no right to reply except as permitted by the administrative law judge or the designated officer on the Interstate Land Sales Board.

§ 1720.240 Motions for extension.

As a matter of discretion, the administrative law judge or the designated officer on the Interstate Land Sales Board may waive the requirements of § 1720.235 as to motions for extensions of time, and may rule upon such motions ex parte. Extentions of time or continuances in any proceeding may be ordered for sufficient cause in the discretion of the administrative law judge on his own motion, or on the motion of either party; but the policy of the Secretary under §1720.210 shall be observed and enforced.

§ 1720.245 Rulings on motions for dismissal.

(a) When a motion is granted with the result that the proceeding before the administrative law judge is terminated, the administrative law judge shall file an initial decision in accordance with the provisions of § 1720.345. If such a motion is not granted as to all allegations and as to all respondents, the administrative law judge shall enter his ruling on the record and take it into account in his initial decision. When a motion to dismiss, based upon alleged failure to establish a prima facie case, is made at the close of the evidence offered in support of the notice of proceedings or suspension notice, the administrative law judge may defer ruling thereon until the close of the case for the reception of evidence.

(b) A motion to dismiss may be made by any party within 5 days after the close of the case for the reception of evidence. The administrative law judge shall enter his ruling on the record and take it into account in his initial decision.

§ 1720.250 Interlocutory review of administrative law judge's rulings.

The designated appeals officer on the Interstate Land Sales Board will not review a ruling of an administrative law judge prior to his consideration of the entire proceeding in the absence of extraordinary circumstances. Except as provided in § 1720.190 an administrative law judge shall not certify a ruling for interlocutory review to an appeals officer unless a party so requests and the administrative law judge finds, either on the record or in writing, that in his opinion (a) a subsequent reversal of his ruling would cause unusual delay or expense, taking into consideration the probability of such reversal, or (b) substantial rights are at stake and the final decision might be materially affected. The certification by the administrative law judge shall be in writing and shall specify the material relevant to the ruling involved. The appeals officer may decline to consider the ruling certified if he determines that interlocutory review is not warranted or appropriate under the circumstances. If the administrative law judge does not certify a matter, a party who had requested certification may apply to the appeals officer for review. An application for review shall be in writing and shall briefly state the grounds relied on and shall be filed within 2 days after notice of the ruling complained of. Review will not be granted unless the appeals officer concludes that the administrative law judge erred in failing to certify the matter. Unless otherwise ordered by the administrative law judge, the hearing shall continue whether or not such certification or application is made. Failure to request certification or to make such application will not waive the right to seek review of the ruling of the administrative law judge after the close of the hearing.

§ 1720.255 Presentation and admission of evidence.

(a) All witnesses at a hearing for the purpose of taking evidence shall testify under oath or affirmation which shall be administered by the administrative law judge. Every party shall have the right to present such oral or documentary evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The administrative law judge shall receive relevant and material evidence, rule upon offers of proof and exclude all irrelevant, immaterial or unduly repetitious evidence.

(b) Evidence shall not be excluded merely by application of technical rules governing its admissibility, competency, weight or foundation in the record; but evidence lacking any significant probative value, or substantially tending merely to confuse or extend the record, shall be excluded.

(c) When offered evidence is excluded, the party offering the same shall be permitted to state on the record an offer of proof with respect thereto and rejected exhibits, adequately marked, shall on request of the party offering the same be retained in the record for purposes of review. Evidence may be received subject to deferred ruling on objections to its admissibility.

(d) Objections to evidence shall be interposed timely and shall specify the particular ground of objection without argument except as argument may be expressly required by the administrative law judge. Formal exception to an adverse ruling is unnecessary.

§ 1720.260 Production of witnesses' statements.

After a witness called by the attorney for the Office of Interstate Land Sales Registration has given direct testimony in a hearing, any other party may request and obtain the production of any statement, or part thereof, of such witness pertaining to his direct testimony in the possession of the Office of Interstate Land Sales Registration, subject, however, to the limitations applicable to the production of witnesses' statements under the Jencks Act, 18 U.S.C. 3500.

§ 1720.265 Depositions and discovery.

(a) At any time during the course of a proceeding, the administrative law judge, in his discretion, may order the taking of a deposition and the production of documents by the deponent. Such order may be entered upon a showing that the deposition is necessary for the purpose of discovery and that such discovery could not be accomplished by voluntary methods. Such order may also be entered in extraordinary circumstances to preserve relevant evidence upon a showing that there is substantial reason to believe that such evidence could not be presented through a witness at the hearing. Insofar as consistent with considerations of fairness and the requirements of due process and the rules of this subpart, a deposition shall not be ordered when it appears that it will result in undue burden to any other party or in undue delay of the proceeding. A deposition shall not be ordered to obtain evidence from a person relating to matters with regard to which he is expected to testify at the hearing, or to obtain evidence which there is reason to believe can be presented at a hearing without the need for deposition or to circumvent the orderly presentation of evidence at the hearing. Depositions may be taken orally or upon written interrogatories and cross-interrogatories before any person having power to administer oaths who may be designated by the administrative law judge.

(b) Any party desiring to take a deposition shall make application in writing to the administrative law judge setting forth the justification therefor and the time and place proposed for the taking of the deposition. The application shall include also the name and address of each proposed deponent and the subject matter concerning which each is expected to depose and shall be accompanied by an application for any subpoenas desired.

(c) Such order as the administrative law judge may issue for taking a deposition shall state the circumstances warranting its being taken, and shall designate the time and place and shall show the name and address of each person who is expected to appear and the subject matter with regard to which each is expected to depose. The time designated shall allow not less than 5 days from date of service of the order when the deposition is to be taken within the United States, and not less than 15 days when the deposition is to be taken elsewhere.

(d) After an order is served for taking a deposition, upon motion timely made by any party or by the person to be deposed and for good cause shown, the administrative law judge may issue any of the following orders which he considers to be appropriate:

(1) That the deposition shall not be taken.

(2) That it may be taken only at some designated place other than that stated in the order.

(3) That it may be taken only on written interrogatories.

(4) That certain matters shall not be inquired into.

(5) That the examination shall be held with no one present except the parties to the action, their counsel and a person qualified in the designated place to administer oaths and affirmations.

(e) The administrative law judge may make any other order which justice requires to protect the party or deponent from annoyance, embarrassment or oppression, or to prevent the unnecessary disclosure or publication of information contrary to the public interest and beyond the requirements of justice in the particular proceeding.

(f) Each deponent shall be duly sworn, and any adverse party shall have the right to cross-examine. Objections to questions or documents shall be in short form, stating the grounds of objections relied upon. The questions and the answers, together with all objections made, but excluding argument or debate, shall be reduced to writing and certified by the person before whom the deposition was taken. Thereafter such person shall forward the deposition and one copy thereof to the party at whose instance the deposition was taken, and shall forward one copy thereof to the representative of each party who was present or represented at the taking of the deposition.

(g) A deposition taken to preserve relevant evidence which any party intends to offer in evidence may be corrected in the manner provided by § 1720.325. Any such deposition shall, in addition to the other required procedures, be read to or by the deponent and subscribed by him if the party intending to offer it in evidence so notifies the person before whom the deposition was taken. Subject to appropriate rulings on such objections to the questions and answers as were noted at the time the deposition was taken or as may be valid when it is offered, a deposition taken to preserve relevant evidence, or any part thereof, may be used or offered in evidence as against any party who was present or represented at the taking of the deposition or who had due notice thereof if the administrative law judge finds any of the following:

(1) That the deponent is dead.

(2) That the deponent is out of the United States or is located at such a distance that his attendance would be impractical unless it appears that the absence of the deponent was procured by the party offering the deposition.

(3) That the deponent is unable to attend or testify because of age, sickness, infirmity or imprisonment.

(4) That the party offering the deposition has been unable to procure the attendance of the deponent by subpoena.

(5) That such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

§ 1720.270 Subpoenas ad testificandum.

Application for issuance of a subpoena requiring a person to appear and depose or testify at the taking of a deposition or at an adjudicative hearing shall be made to the administrative law judge who may issue such subpoena.

§ 1720.275 Subpoenas duces tecum.

(a) Application for issuance of a subpoena requiring a person to appear and depose or testify and to produce specific documents, papers, books, or other physical exhibits at the taking of a deposition, or at a prehearing conference, or at an adjudicative hearing shall be made in writing to the administrative law judge who may issue such subpoena and shall specify as exactly as possible the general relevancy of the material and the reasonableness of the scope of the subpoena.

(b) Subpoenas duces tecum may be used by any party for purposes of discovery or for obtaining documents, papers, books, or other physical exhibits for use in evidence, or for both purposes. When used for discovery purposes, a subpoena may require a person to produce and permit the inspection and copying of nonprivileged documents, papers, books, or other physical exhibits which constitute or contain evidence relevant to the subject matter involved and which are in the possession, custody or control of such person.

§ 1720.280 Motion to limit or quash.

Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of service of such subpoena, apply to the administrative law judge to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefor. The administrative law judge shall have the discretion of granting, denying or modifying said motion.

§ 1720.285 Rulings on applications for compulsory process; appeals.

(a) Applications for orders requiring the production of witnesses' statements pursuant to the provisions of § 1720.260, applications for orders requiring the taking of depositions pursuant to the provisions of § 1720.265 and applications for the issuance of subpoenas pursuant to the provisions of §§ 1720.270 and 1720.275 (other than as provided in § 1720.290) may be made ex parte, and, if so made, such applications and the rulings thereon

shall remain ex parte unless otherwise ordered by the administrative law judge. Such applications shall be ruled upon by the administrative law judge assigned to hear the case or, in the event he is not available, by another administrative law judge designated by the Secretary.

(b) Appeals to an appeals officer on the Interstate Land Sales Board from rulings denying applications within the scope of paragraph (a) of this section, or from rulings on motions to limit or quash process issued pursuant to such applications (other than as provided in § 1720.290) will be entertained by the appeals officer only upon a showing that the ruling complained of involves substantial rights and will materially affect the final decision, and that a determination of its correctness before conclusion of the hearing is essential to serve the interests of justice. Such appeals shall be made on the record, shall briefly state the grounds relied on and shall be filed within 5 days after notice of the ruling complained of. Appeals from denials of ex parte applications shall have annexed thereto copies of the applications and rulings involved. Any answer to such appeal shall not operate to suspend the hearing unless otherwise ordered by the administrative law judge or the appeals officer.

§ 1720.290 Form of and rulings on applications for subpoenas for confidential records of the Office of Interstate Land Sales Registration; for appearance of employees; appeals; review.

(a) An application for issuance of a subpoena requiring the production of documents, papers, books, physical exhibits or other material, or the disclosure of confidential information in the records of the Office of Interstate Land Sales Registration, other than material or information to which the applicant is entitled by law, or for the issuance of a subpoena requiring the appearance of an official or employee of the Office of Interstate Land Sales Registration shall be made in the form of a written motion filed in accordance with the provisions of § 1720.230.

(b) The motion shall specify as exactly as possible the material to be produced, the nature of the material to be produced, the nature of the information to be disclosed or the expected testimony of the official or employee of the Office of Interstate Land Sales Registration and shall contain a statement showing the general relevancy of the material, information, or testimony and the reasonableness of the scope of the application, together with a showing that such material, information, or testimony is not available from other sources by voluntary methods or through other provisions of the rules in this subpart.

(c) Applications in the form of written motions shall be ruled upon by the administrative law judge and to the extent that such a motion is granted provision shall be made for such terms and conditions relating to the production of the material, the disclosure of the information or the appearance of the official or employee of the Office of Interstate Land Sales Registration as may appear necessary and appropriate for the protection of the public interest.

(d) Appeals to the appeals officer on the Interstate Land Sales Board from rulings on motions to limit or quash subpoenas within the scope of paragraph (a) of this section shall be made on the record and shall be in the form of a brief not to exceed 30 pages in length which shall be filed within 5 days after notice of the ruling is received by the objecting party. Any answer to such appeal shall be filed within 5 days after service of the appeal brief. The appeal shall not operate to suspend the hearing unless otherwise ordered by the administrative law judge or the appeals officer.

§ 1720.300 Official notice.

Official notice may be taken of any material fact which might be judicially noticed by a District Court of the United States, any matter in the public official records of the Office of Interstate Land Sales Registration or any matter which is peculiarly within the knowledge of the appeals officer on the Interstate Land Sales Board; provided, that when any decision of an administrative law judge or of an appeals officer on the Interstate Land Sales Board rests, in whole or in part, upon the taking of official notice of a material fact not appearing in evidence of record opportunity to disprove such noticed fact shall be granted any party making timely request therefor.

§ 1720.320 Reporting and transcription.

Hearings shall be stenographically or mechanically reported and transcribed under the supervision of the hearing examiner. The original transcript shall be a part of the record and the sole official transcript. Copies of transcripts are available from the reporter at rates not to exceed the maximum rates fixed by contract between the Secretary or his designee and the reporter.

§ 1720.325 Corrections.

Corrections of the official transcript ordered by the administrative law judge shall be included in the record. Corrections shall not be ordered by the administrative law judge except upon notice and opportunity for the hearing of objections. Such corrections shall be made by the reporter by furnishing substitute pages, under the usual certificate of the reporter, for insertion in the official record.

§ 1720.330 Proposed findings, conclusions, and order.

The administrative law judge may fix a reasonable time, not to exceed 30 days after the close of the evidence, during which any party may file with the administrative law judge proposed findings of fact, conclusions of law and rules or orders together with briefs in support thereof. Such proposals shall be in writing, shall be served upon all parties and shall contain adequate references to the record and to authorities relied on. The record shall show the administrative law judge's ruling on each proposed finding and conclusion, except when his rule or order disposing of the proceeding otherwise informs the parties of the action taken by him thereon.

§ 1720.345 Initial decisions: Time for filing; when effective.

(a) The administrative law judge shall make and file an initial decision within 60 days after the close of the taking of evidence in cases in which a hearing is held.

(b) The initial decision shall become the decision of the Secretary 30 days after service thereof upon the parties unless one of the following occurs:

(1) An appeal is perfected under § 1720.365.

(2) The appeals officer on the Interstate Land Sales Board by order stays the effective date of the decision.

§ 1720.350 Initial decision—content.

The initial decision shall include a statement of (a) findings, with specific references to principal supporting items of evidence in the record and conclusions, as well as the reasons or bases therefor, upon all of the material issues of fact, law or discretion presented on the record, and (b) an appropriate order. The initial decision shall be based upon a consideration of the whole record and supported by reliable, probative and substantial evidence.

§ 1720.360 Reopening of proceeding by administrative law judge; termination of jurisdiction.

(a) At any time prior to the filing of his initial decision, administrative law judge may reopen the proceeding for the reception of further evidence.

(b) Except for the correction of clerical errors, the jurisdiction of the administrative law judge is terminated upon the filing of his initial decision unless and until the proceeding is remanded to him by the appeals officer on the Interstate Land Sales Board.

§ 1720.365 Appeal from initial decision.

(a) *Notice of intention.*—Any party to a proceeding may appeal an initial decision to an appeals officer on the Interstate Land Sales Board: *Provided,* That within 10 days after the completion of service of the initial decision such party files a notice of intention to appeal.

(b) *Appeal brief.*—The appeal shall be perfected by filing and serving on all parties to the proceeding a brief conforming to § 1720.385 to be filed within 30 days after completion of service of the initial decision. In addition, the appeal brief shall contain a proposed form of rule or order for the consideration of the appeals officer on the Interstate Land Sales Board in lieu of the rule or order contained in the initial decision.

§ 1720.375 Answering brief.

Within 20 days after service of an appeal brief upon a party, such party may file an answering brief conforming to the requirements of § 1720.385.

§ 1720.380 Reply brief.

A brief in reply to an answering brief, limited to rebuttal of matters in the answering brief, may be filed and served by a party within 7 days after receipt of the answering brief or the day preceding oral argument whichever is earlier. No answer to a reply brief will be permitted.

§ 1720.385 Length and form of briefs.

No brief shall exceed 60 pages in length except with the permission of the administrative law judge or the appeals officer on the Interstate Land Sales Board and shall contain, in the order indicated, the following:

(1) The title of the proceeding, file number, the name of the party on whose behalf it is submitted and the name and address of his attorney in the matter on the front cover or title page.

(2) Subject index with page references.

(3) Table of cases alphabetically arranged, statutes, texts, and other authorities and materials cited, with page references.

(4) A concise statement of the facts of the case, without argument.

(5) A concise statement of the questions sought to be raised.

(6) The argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question with specific page references to the record so far as available, and to legal authority or other material relied upon in support of statements contained in the agrument.

§ 1720.390 Oral argument.

Oral arguments will not be heard in cases on appeal to the appeals officer on the Interstate Land Sales Board unless the officer otherwise orders, and stenographic or mechanical record of such oral argument may be made, in the officer's discretion. The purpose of oral argument is to emphasize and clarify the written argument appearing in the briefs and to answer questions.

§ 1720.400 Decision on appeal or review.

(a) Upon appeal from or review of an initial decision, the appeals officer on the Interstate Land Sales Board will consider such parts of the record as are cited or as may be necessary to resolve the issues and, in addition, will, to the extent necessary or desirable, exercise all the powers which he could have exercised if he had made the initial decision. Unless exceptional circumstances are present, however, all appeals and reviews will be determined upon the record made before the administrative law judge.

(b) In rendering his decision, the appeals officer may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, the initial decision by the hearing officer, and shall include in his decision a statement of the reasons or bases for his action and any concurring or dissenting opinions.

(c) In those cases where the appeals officer believes that he should have further information or additional arguments of the parties as to the form and content of the rule or order to be issued, he may withhold final decision pending the receipt of such additional information or argument under procedures specified.

(d) The decision of the appeals officer shall be final, and shall become the decision of the Secretary 30 days after service thereof upon the parties, unless the appeals officer determines that the protection of the public interest necessitates an earlier effective date under the circumstances, in which event he will specify in the order his specific findings as to such circumstances.

§ 1720.405 Reconsideration.

Within 10 days after completion of service of a decision by an appeals officer on the Interstate Land Sales Board, any party may file with the Interstate Land Sales Board a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Any petition filed hereunder must relate to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before an appeals officer on the Interstate Land Sales Board. Any party desiring to oppose such a petition shall file an answer thereto within 10 days after service upon him of the petition. The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order to toll the running of any statutory period affecting such decision or order unless specifically so ordered by the Interstate Land Sales Board.

Subpart E—Miscellaneous Rules

§ 1720.410 Qualifications for appearances.

(a) Members of the bar of a Federal Court or of the highest court of any state or of the United States are eligible to practice before the Secretary. No register of attorneys will be maintained.

(b) Any individual or member of a partnership involved in any proceeding or investigation may appear on behalf of himself or of such partnership upon adequate identification. A corporation or association may be represented by a bona fide officer thereof upon a showing of adequate authorization.

(c) A person shall not be represented except as stated in paragraphs (a) and (b) of this section unless otherwise permitted.

§ 1720.415 Restrictions on appearances as to former officers and employees.

(a) Except as specifically authorized by the Secretary, no former officer or employee of the Department of Housing and Urban Development shall appear as attorney or counsel or otherwise participate through any form of professional consultation or assistance in any proceeding or investigation, formal or informal, which was pending in any manner in the Office of Interstate Land Sales Registration while such former officer or employee served with the Department of Housing and Urban Development.

(b) In cases to which paragraph (a) of this section is applicable, a former officer or employee of the Department of Housing and Urban Development may request authorization to appear or participate in a proceeding or investigation by filing with the Secretary a written application disclosing the following relevant information: (1) The nature and extent of the former officer's or employee's participation in, knowledge of, and connection with the proceeding or investigation during his service with the Department of Housing and Urban Development; (2) whether the files of the proceeding or investigation came to his attention; (3) whether he was employed in the same office, division, or administrative unit in which the proceeding or investigation is or has been pending; (4) whether he worked directly or in close association with Office of Interstate Land Sales Registration personnel assigned to the proceeding or investigation; (5) whether during his service with the Department of Housing and Urban Development he was engaged in any matter concerning the individual, company, or industry in the proceeding or investigation.

(c) The requested authorization will not be given in any case (1) where it appears that the former officer or employee during his service with the Department of Housing and Urban Development participated personally and substantially in the proceeding or investigation, or (2) where the application is filed within one (1) year after termination of the former officer's or employee's service with the Department of Housing and Urban Development and it appears that within a period of one (1) year prior to the termination of his service the proceeding or investigation was within the official responsibility of the former officer or employee. In other cases, authorization will be given where the Secretary is satisfied that the appearance or participation will not involve any actual conflict of interest or impropriety thereof.

(d) In any case in which a former officer or employee of the Department of Housing and Urban Development is prohibited under this section from appearing or participating in a proceeding or investigation, any partner or legal or business associate of such former officer or employee shall likewise be so prohibited unless: (1) Such partner or legal or business associate files with the Secretary an affidavit that in connection with the matter the services of the disqualified former officer or employee will not be utilized in any respect and the matter will not be discussed with him in any manner, and that the disqualified former officer or employee shall not share, directly or indirectly, in any fees or retainers received for services rendered in connection with such proceeding or investigation; (2) the disqualified former officer or employee files an affidavit stating that he will not participate in the matter in any manner; and that he will not discuss it with any person involved

in the matter; and (3) upon the basis of such affidavits, the Secretary determines that the appearance or participation by the partner or associate would not involve any actual conflict of interest or impropriety thereof.

§ 1720.425 Standards of practice.

(a) Attorneys shall conform to the standards of professional and ethical conduct required by practitioners in the courts of the United States and by the bars of which the attorneys are members.

(b) The privilege of appearing or practicing may be denied, temporarily or permanently, to any person who is found after notice and opportunity for hearing which at his request or in the discretion of the Secretary may be private, and for presentation of oral argument in the matter (1) not to possess the requisite qualifications to represent others, or (2) to be lacking in character or integrity or (3) to have engaged in unethical or improper professional conduct.

(c) Contemptuous conduct at any hearing shall be grounds for summary exclusion from said hearing for the duration of the hearing.

§ 1720.430 Form and filing requirements.

(a) *Filing.* Except as otherwise permitted, six copies of all documents shall be filed with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, Washington, D.C. 20411, on official work days between the hours of 8:45 a.m. and 5:15 p.m.

(b) *Title.* Documents shall clearly show the file, docket number, and title of the action in connection with which they are filed.

(c) *Form.* Except as otherwise permitted, all documents shall be printed, typewritten, or otherwise processed in clear legible form and on good unglazed paper.

§ 1720.435 Time computation.

Computation of any period of time prescribed or allowed by the rules and regulations in this part, or by order of the Secretary or his designee or of an administrative law judge, shall begin with the first business day following that on which the act, event, development or default initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or national holiday, or other day on which the Department of Housing and Urban Development is closed, the period shall run until the end of the next following business day. Except when any prescribed or allowed period of time is 7 days or less, each of the Saturdays, Sundays, and national holidays shall be included in the computation of the prescribed or allowed period.

§ 1720.440 Service.

Service of notices, orders, processes, determinations and other documents required or permitted to be served under these rules may be effected as follows:

(a) *Upon the Secretary.* By personal delivery at the office, or by registered or certified mail addressed to the office of any of the following officials in the Office of Intrastate Land Sales Registration: Administrator; Deputy Administrator; Assistant Deputy Administrator; Director, Examination Division; or Director, Administrative Proceedings Division.

(b) *Upon any other person.* By delivery of a copy of the documents to the person to be served wherever he may be found, or by leaving such copy at his office or place of business with a person apparently in charge thereof, or, if there is no one in charge or if the office is closed or if he has no office, by leaving a copy at his residence with some person of suitable age and discretion then residing therein, or by sending a copy by registered or certified mail, return receipt requested, addressed to the person at his last known residence, or at his or its last known principal office or place of business. If the address of the residence, principal office, or place of business is unknown and cannot with due diligence be ascertained, service by mail may be made to any office at which the person to be served is known to be employed.

(c) *Service on corporations, partnerships, associations, other entities.* Service may be made upon any corporation, partnership, business association or other entity by serving any officer, director, partner, trustee, agent for service or managing agent thereof. A managing agent, within the meaning of this subsection, is an agent having the principal managerial responsibility in connection with the regular operation of a distinct office or activity of the enterprise.

(d) *Service through attorney.* When a person other than the Secretary and his staff shall have appeared of record in a proceeding, generally or specially, by attorney, all subsequent services of notices, orders, processes, and other documents in connection with such proceeding may be made upon such person by serving the attorney, except that subpoenas and other orders by which such person may be brought in contempt shall be served upon him by one of the methods described in paragraphs (b) and (c) of this section. In any case, copies of documents not served by serving such attorney shall be promptly sent to him; but service on such person shall be effective without proof that copies so sent were received.

(e) *Proof of service.* Proof of service shall not be required unless the fact of service is seasonably put in issue by appropriate motion or objection on the part of the person allegedly served or other party. In such cases, service may be established by written admission signed by or on behalf of the person to be served, or may be established prima facie by affidavit or certificate of service or mailing, as appropriate. When service is by registered or certified mail, it is complete upon delivery of the document by the post office.

Subpart F—Interstate Land Sales Board and Appeals Officers

§ 1720.500 Functions of the Interstate Land Sales Board and appeals officers.

There is hereby established within the Department of Housing and Urban Development an Interstate Land Sales Board, the members of which are designated as appeals officers and may be appointed from time to time by the Secretary. The functions, powers, and responsibilities delegated to an appeals officer designated from the Board as the authorized representative of the Secretary shall be to hear, consider and determine fully and finally appeals from decisions made pursuant to the rules in this part by administrative law judge and to conduct hearings pursuant to 15 U.S.C. 1715.

§ 1720.510 Composition of the Interstate Land Sales Board.

The Board shall consist of four (4) appointed employees of the Department of Housing and Urban Development designated as appeals officers, other than employees in the Office of Interstate Land Sales Registration. An appeals officer on the Board shall be available at all times for the hearing of each appeal. Records of proceedings before an appeals officer shall be kept by a Secretary to the Board who shall be an employee of the Office of General Counsel.

§ 1720.520 Decisions of appeals officer.

A decision of an appeals officer shall be considered the final action on behalf of the Secretary on matters properly before such officer pursuant to the rules in this part.

§ 1720.525 Reconsideration of final decision of appeals officer.

Any hearing for reconsideration pursuant to § 1720.405 of this part shall be heard by any three of the four appeals officers who shall sit in review as the Interstate Land Sales Board.

§ 1720.530 Department representative.

In each case being heard before an administrative law judge or an appeals officer, pursuant to this part, the Department shall be represented by a Department hearing attorney. The General Counsel shall designate one or more attorneys under his jurisdiction to act as Department hearing attorneys.

Effective date.—The foregoing Parts 1700, 1710, 1715, and 1720 as revised are effective on December 1, 1973. All initial requests, filings, consolidations, amendments, and other applicable actions made after the effective date stated above shall be made pursuant to these regulations.

Statements of record, consolidations and amendments filed with OILSR prior to the effective date of these regulations shall be examined on the basis of the regulations in effect at the time of filing and may become effective on the basis of such regulations or if the developer so desires he may file pursuant to the new regulations and his filing shall be examined and made effective on the basis of

those regulations. Any amendments filed after the effective date of these regulations shall contain the changes necessary to bring the filing or consolidation into compliance with these regulations with the exception that Part II., subparts A. and B., Part IV. E., subparts 1. and 2. and Part V. of the statement of record may be retained in their original form if the only changes in these parts would be the result of the new regulations. Consolidations may be updated by including the information required by the new regulations in the last consolidation on which there is an effective property report.

(Sec. 7(d) of the Department of Housing and Urban Development Act, 79 Stat. 670, 42 U.S.C. 3535(d), 1419, 82 Stat. 593, 15 U.S.C. 1718, Secretary's delegation of authority published at 37 FR 5071.)

Issued at Washington, D.C., August 27, 1973.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.73-18482 Filed 8-31-73;8:45 am]

federal register

TUESDAY, SEPTEMBER 4, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 170

PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

■

GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

Notice of Proposed Rulemaking

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Part 903]

GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

Notice of Proposed Rulemaking

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Commissioner on Aging, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations implement a new title III of the Older Americans Act of 1965, as amended by P.L. 93-29, the Older Americans Comprehensive Services Amendments of 1973.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objectives thereto which are submitted in writing to the Commissioner on Aging, U.S. Department of Health, Education, and Welfare, Mary Switzer, Building, 330 C Street SW., Washington, D.C. 20201, on or before October 4, 1973. Comments received will be available for public inspection in Room 3086, Mary Switzer Building, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Area Code 202-963-3581). The Commissioner on Aging will hold a public hearing on these proposed regulations in Washington, D.C. on September 17, 1973. Such hearings will be held between 9:30 a.m. and 5 p.m., in Room 5104, New Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C. Persons desiring to comment on these proposed regulations at such hearing should file a request with the Commissioner on Aging no later than September 12, 1973. Additional information may be obtained from the Office of the Commissioner, Administration on Aging, (Area Code 202-963-3581).

Upon the promulgation of these regulations, guidelines will be issued by the Commissioner on Aging. These guidelines will be designed to provide the additional guidance necessary to assure implementation of this program in conformity with the Act and the regulations.

Federal financial assistance extended under Part 903 is subject to the regulations in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d).

Dated August 27, 1973.

ARTHUR S. FLEMMING,
Commissioner on Aging.

Approved August 27, 1973.

STANLEY B. THOMAS, JR.,
Assistant Secretary for Human Development.

Approved August 28, 1973.

FRANK C. CARLUCCI,
Acting Secretary.

(Catalog of Federal Domestic Assistance Program No. 13.700—Grants to States for Community Programs.)

Part 903 of Title 45 of the Code of Federal Regulations is revised to read as follows:

PART 903—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

Sec.

AUTHORITY: Sec. 301, P.L. 93-29, 87 Stat. 36-45 (42 U.S.C. 3021-3025).

Subpart A—Purpose

§ 903.1 Purpose of the program.

(a) It is the purpose of the program under title III of the Act to encourage and assist State and area agencies to concentrate resources in order to develop greater capacity and to foster the development of comprehensive and coordinated service systems to serve older persons.

(b) The systems are to be developed by the agencies' entering into new cooperative arrangements with each other and with providers of social services for planning for the provision of, and providing, social services, and where necessary, to reorganize or reassign functions.

(c) The goals of the comprehensive and coordinated service systems are to:

(1) Secure and maintain maximum independence and dignity in a home environment for older persons capable of self-care with appropriate supportive services; and

(2) Remove individual and social barriers to economic and personal independence for older persons, including the provision of opportunities for employment and volunteer activities in the communities where older persons live.

(d) In order to achieve this purpose, the resources made available under title III shall be used to:

(1) Provide for the development and implementation by designated State and area agencies, in conjunction with other planners and service providers, and older consumers of service, of State and area plans which set forth specific program objectives and priorities for meeting the needs of the elderly with emphasis on the needs of low income and minority elderly;

(2) Increase the capability of State and area agencies to develop and implement action programs designed to achieve the coordination of existing social service systems in order to make such systems more effective, efficient, and responsive in meeting the needs of the elderly;

(3) Draw in increasing commitments from public and private agencies which have resources that can be utilized to serve the elderly, and encourage such agencies to enter into cooperative arrangements directed toward maximum utilization of existing resources on behalf of the elderly;

(4) Make existing social services more accessible to older persons in need through the development and support of services such as transportation, outreach, information and referral and escort which can increase the ability of older persons to obtain other social services; and

(5) Promote comprehensive services for the elderly through the development and support of social services which are needed by older persons but which are not otherwise available.

(e) Funds made available under this part shall be used primarily to provide maximum incentive for attracting support from public and private agencies having resources for programs for the elderly.

(f) Funds made available under this part may be used to provide social services only when it has been clearly shown that:

(1) Such services are needed and are not already available; and

(2) No other public or private agency can or will provide such social services.

(g) Agencies providing services to older persons under this part must seek reimbursement for the cost of providing the services when a third party (including a government agency) is authorized or is under legal obligation to pay such costs.

§ 903.2 Definitions.

In addition to the definitions set forth in § 901.2, of this chapter, the following definitions are applicable for purposes of this part:

(a) "Area agency" means the single agency designated by the State agency to be responsible for the program described in this part within a planning and service area designated by the State agency.

(b) "Area plan" means the document submitted annually by an area agency to the State agency for approval which sets forth goals and measurable objectives and identifies the planning, coordination, administration, social services, and evaluation activities to be undertaken to carry out the purposes of this title.

(c) The term "comprehensive and coordinated system" means a system for providing all necessary social services in a manner designed to:

(1) Facilitate accessibility to and utilization of all social services provided within the geographic area served by such system by any public or private agency or organization;

(2) Initiate, develop and make the most effective use of social services in meeting the needs of older persons; and

(3) Use available resources efficiently and with a minimum of unnecessary duplication.

(d) The term "low income" means those persons whose income is below the current Department of Commerce, Bureau of Census poverty threshold.

(e) The term "minority" means those persons who identify themselves as American Indian, Negro, Oriental, or Spanish language, and members of any additional limited English-speaking groups designated as minority within the State by the State agency.

(f) The term "multipurpose senior center" means a community facility for the organization and provision of a broad spectrum of services, which may include the provision of health, social, and education services (as defined in § 903.2(g)), and provision of facilities for recreational activities for older persons.

(g) For the purposes of this part, the term "social services" means only the following services:

(1) Coordination activities which link together, in support of common objectives, existing planning and service resources, and assure the utilization of such resources for the purpose of developing and carrying out action programs and activities which will result in improvement, expansion, and, as necessary, initiation of services needed by older persons.

(2) Information sources or services which provide a location where State, area or other public or private agencies or organizations;

(i) maintain current information with respect to the opportunities and services available to older persons, and develop current lists of older persons in need of services and opportunities; and

(ii) employ a specially trained staff, including bilingual individuals as appropriate, to inform older persons of the opportunities and services which are available, and assist such persons to take advantage of such opportunities and services.

(3) Referral services which assist individuals to identify the type of assistance needed, place individuals in contact with appropriate services, and followup to determine whether services were received and met the need identified, and which provide for the maintenance of proper records for use in identifying services offered and gaps in existing services systems.

(4) Transportation services designed to transport older persons to and from community facilities and resources for the purpose of applying for and receiving services, reducing isolation, or otherwise promoting independent living, but not including a direct subsidy for an overall transit system or a general reduced fare program for a public transit system. Such transportation services shall be, insofar as possible, part of an area transportation plan;

(5) Services designed to encourage and assist older persons to use the facilities and services available to them, including:

(i) Outreach services, including search and find activities, which seek out and identify hard-to-reach individuals and assist them in gaining access to needed services; and

(ii) Escort services which assist individuals who, for a variety of factors, are unable to use conventional means of transportation to reach needed services, or require such assistance for reasons of personal security or protection.

(6) Counseling services which provide direct guidance and assistance in the utilization of needed health and social services, and help in coping with personal problems which threaten personal health and social functioning;

(7) Health related services which identify health needs of individuals, and assist such individuals to obtain health services under Medicare, Medicaid, or other health services programs, and from other public or private agencies or providers of health services; planning, as appropriate, with the individual in need of service, and health providers, to help obtain continuity of treatment and carrying out of health recommendations; assisting such individuals where appropriate to secure admission to medical institutions and other health related facilities; and home health services as defined in paragraph (g) (8) (iii) of this section;

(8) Preventive services to avoid institutionalization, which may include any of the following services:

(i) Periodic screening and evaluation which provide for an assessment of an individual's need for those medical and social services necessary to retain his capacity for self-care and to maintain independent living in his home as long as possible;

(ii) Homemaker services which provide care for elderly individuals in their own homes and help them maintain, strengthen, and safeguard their personal functioning in their own homes through

the services of a trained and supervised homemaker;

(iii) Home health services which provide basic health services to individuals who can be cared for at home, including part-time bedside nursing care under medical supervision, occupational, physical, and speech therapy, homemoker-home health aide services, the services of a home health aide, and home delivered meals services which meet the nutritional standards prescribed in part § 909 of this Chapter;

(iv) Chore services which provide for the performance of household tasks, essential shopping, simple household repairs, and other light work necessary to enable an individual to remain in his own home, when, because of frailty or other condition, such individual is unable to perform such tasks himself;

(v) Friendly visiting services which provide regular visits to the homes of socially and geographically isolated individuals to provide socialization;

(vi) Telephone reassurance services which provide for telephone calls at specified times as often as necessary, to or from individuals who live alone, or who are temporarily alone, to determine if they are safe and well, if they require special assistance, and to provide psychological reassurance;

(vii) Protective services which are designed to assist those elderly persons carry out the activities of daily living who, because of impaired mental or physical functioning are unable to manage their own affairs, or protect themselves from neglect or hazardous situations without assistance from others; and

(viii) Housing assistance to aid individuals in obtaining adequate housing through the provision of technical help (as contrasted to financial help) in order to improve their present living arrangements or to relocate to more suitable housing when needed.

(9) Recreational services which foster the health and social well-being of individuals through social interaction and the satisfying use of time;

(10) Continuing education services, including consumer education, which are designed to provide individuals with opportunities to acquire knowledge and skills suited to their interests and capabilities through either formal academic courses or informal methods, with a view toward either vocational or personal enrichment;

(11) Legal services which provide legal advice and counseling to older persons in matters of importance to the individual, including serving as an advocate of older persons who have consumer problems;

(12) Welfare services which seek to assure the health and well-being of individuals, which neither duplicate nor overlap any cash assistance and social service programs, and the health and social services provided under Medical Assistance.

(h) The term "unit of general purpose local government" means:

(i) A political subdivision of the State, or a grouping of such subdivisions, whose authority is broad and general and is not limited to only one function or a combination of related functions; or

(ii) An Indian tribal organization, including any Indian tribe, band, group, pueblo, community, or Alaskan native village, which has a recognized governing body which performs substantial governmental functions.

Subpart B—The State Plan

§ 903.12 Purpose and content of the State plan.

In order for a State to be eligible for grants for a fiscal year from the allotments of funds under title III of the Act, it shall submit a State plan, prior to the beginning of each fiscal year, to the Commissioner for approval. The State plan shall consist of:

(a) A detailed commitment that the title III program will be carried out in keeping with the provisions of the Act and all regulations, policies and procedures established by the Commissioner; and

(b) A fiscal year operating plan which shall include:

(1) An analysis of the needs and characteristics of the elderly population in the State with emphasis on low income and minority older persons, and an identification of those persons who will be given priority in the implementation of the State plan;

(2) A statement of the goals and measurable objectives, in priority order, established for the title III program which relates to the national goals and objectives established by the Commissioner for a fiscal year and announced to the States;

(3) An identification of the barriers to achievement of the objectives established;

(4) An inventory and analysis of the resources available in the State to meet the needs of older persons; and

(5) A plan of action which describes in detail how the title III program will be implemented and how the funds made available under this part will be allocated by the State agency.

§ 903.13 Designation of the State agency.

(a) The State Plan shall identify the sole State agency that has been designated to:

(1) Develop the State plan to be submitted to the Commissioner for approval;

(2) Administer the State plan within the State;

(3) Be primarily responsible for the coordination of all State activities related to the purposes of the Act;

(4) Divide the entire State into distinct areas (hereinafter referred to as "planning and service areas") in accordance with the requirements prescribed in § 903.57;

(5) Designate a public or nonprofit private agency or organization as the area agency on aging for each planning and service area for which an area plan will be developed;

(6) Approve the area plans developed by such area agencies;

(7) Monitor and assess the implementation of each area plan, including the progress toward the achievement of the objectives set forth in the plan; and

(8) Carry out all other functions and responsibilities as prescribed in this part for the State agency.

§ 903.14 Authority of the State agency.

The State plan shall contain certification by the State Attorney General that the State agency has the authority to submit the State plan; is the sole agency responsible for the conduct of all the functions prescribed for such agency in this part; and that nothing in the State plan is inconsistent with State law.

§ 903.15 Review of plan by Governor.

The State plan must be submitted to the State Governor for his review and approval, and the State plan must provide that the Governor will be given an opportunity to review and approve all amendments to the State plan.

§ 903.16 Plan submission and approval.

The State plan shall be submitted for approval within 60 days following the effective date of this part, and for each fiscal year thereafter, at least 60 days prior to the beginning thereof. Any State plan or amendment meeting the requirements of this part as determined by the Commissioner shall be approved.

§ 903.17 Plan amendments.

The State agency's administration of the program under this part shall be in conformity with the State plan as approved by the Commissioner. Whenever there is any material change in the content or administration of the State plan as approved, or when there has been a change in pertinent State law or in the organization, policies, or operations of the State agency affecting the plan, the State plan shall be appropriately amended.

§ 903.18 Plan review.

The State plan as approved and all amendments thereto shall be subject to such review as the Commissioner may prescribe.

§ 903.19 Plan disapproval.

No State plan, or any modification thereof, submitted under title III of the Act, shall be finally disapproved without first affording the State reasonable notice and opportunity for a hearing.

§ 903.20 Withholding of funds.

(a) Whenever the Commissioner, after giving reasonable notice and opportunity for hearing to the State agency administering a State plan approved under title III of the Act, finds that: (1) The State is not eligible under section 304 of the Act; (2) the State plan has been so changed that it no longer complies with the provisions of the Act; or (3) in the administration of the plan there is a failure to comply substantially with any such provision, the Commissioner shall

notify such State agency that no further payments will be made to the State under title III of the Act (or in his discretion, that further payments to the State will be limited to projects under or portions of the State plan not affected by such failure) until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments shall be made to such State under title III of the Act (or payments shall be limited to projects under, or portions of, the State plan not affected by such failure).

(b) If there is no appeal, or if the action taken by the Commissioner is upheld as a result of an appeal in keeping with the procedures prescribed in § 903.21 of this subpart, the Commissioner shall take action to disburse the funds withheld in the following manner:

(1) The Commissioner shall, by whatever steps he deems appropriate, notify those appropriate public or nonprofit private organizations or agencies or political subdivisions of such State that they may submit a State pan under the authority of section 304(d)(3) of the Act for use of the allotments (or portions thereof) unused by the State as a result of action taken under paragraph (a) of this section.

(2) Any state plan so submitted must conform to all the requirements and procedures related to the submission of State plans prescribed in this part.

(3) The Commissioner shall give priority to any State level public agency submitting such a plan that has the authority and capacity to administer this program on a statewide basis. If no such State level public agency submits a plan, consideration shall then be given to those other agencies submitting such a plan that have the authority and capacity to administer this program on a Statewide basis.

§ 903.21 Appeal procedures.

A State which is dissatisfied with a final action of the Commissioner under § 903.19 or § 903.20 may appeal to the U.S. Court of Appeals for the circuit in which the State is located, by filing a petition with such court within 60 days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside his order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

Subpart C—State Agency Organization

§ 903.34 Organization of the State agency.

The State plan shall provide that there will be a single organizational unit within the State agency designated in accordance with § 903.13, with delegated authority for, and whose principal responsibilities shall be, Statewide planning, coordination, administration, and evaluation of programs and activities related to the purposes of the Act, including all other functions prescribed for such agency in this part. Such unit shall be identified in the State plan. If the State agency is an independent single purpose agency, such agency, in its entirety, may constitute the single unit. In all other cases, the single organizational unit must be placed at an organizational level within the State agency to assure effective performance of all the responsibilities of the unit prescribed in this part. In establishing an organizational structure for the unit, including determination of the need for a State regional structure for the unit, due consideration shall be given to the geography of the State, the number and concentration of older persons, and other special conditions in the State.

§ 903.35 Methods of administration.

(a) The State plan shall provide for the use of such methods of administration as are necessary for the proper and efficient administration of the plan, and for the conduct of all functions for which the State is responsible under the plan and this part, including the coordination and integration of activities related to the purposes of the Act, adequate controls over operations, procedures for the development and interpretation of policies and standards, recordkeeping and reporting procedures, monitoring programs supported under this part, evaluation of program activities, and effective supervision of staff.

(b) If certain specified portions of the plan are to be administered by an agency other than the State agency, the State plan shall provide for such methods of administration as are necessary to assure the applicability of all requirements set forth in the State plan and this part.

§ 903.36 Staffing of the single organizational unit.

(a) The State plan shall contain a staffing plan that sets forth the projected staffing of the single organizational unit for the fiscal year for which the plan is submitted. The staffing plan must set forth the number and type of personnel employed, and the timetable for the hiring of staff set forth in such plan.

(b) The State plan must provide that:

(1) The single organizational unit will be headed by an individual qualified by education and experience to assume leadership of the program, assigned full-time solely to this activity; and

(2) Adequate numbers of qualified staff, including members of minority groups, will be assiggned full-time, solely to the single organizational unit, to assure the effective conduct of the responsibilities under this part.

(3) Subject to the requirements of merit employment systems of the State, preference shall be given to persons aged sixty or over for any staff positions (full-time or part-time) in the State agency for which such persons qualify.

(c) The staffing plan contained in the State plan approved for a fiscal year must be followed in all personnel actions taken by the State agency.

(d) The State agency may contract for technical assistance to assist its staff in the performance of their duties and responsibilities.

§ 903.37 Standards of personnel administration.

(a) The State plan shall provide that methods of personnel administration will be established and maintained in the State agency administering the State plan and in local public agencies conducting activities under this part in conformity with the Standards for a Merit System of Personnel Administration, Part 70 of this title, and any standards prescribed by the U.S. Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970 modifying or superseding such standards. Under this requirement, laws, rules, regulations, and policy statements, and amendments thereto effectuating such methods of personnel administration are a part of the State plan. Statements of acceptance of these standards must be obtained from all local public agencies conducting activities under this part, and methods must be established by the State to assure compliance by local jurisdictions. Citations of applicable State laws, rules, regulations, and policies which provide assurance of conformity to the standards in Part 70 of this title or to modifying or superseding standards issued by the U.S. Civil Service Commission must be submitted with the State plan. Copies of the materials cited and of similar local materials maintained by a State official responsible for compliance by local jurisdictions must be furnished to the Department on request.

(b) The State plan shall provide that the State agency will develop and implement an affirmative action plan for equal employment opportunity as specified in § 70.4 of this title. The affirmative action plan will provide for specific action steps and timetables to assure equal employment opportunity. This plan shall be

made available for review upon request.

(c) The Commissioner shall exercise no authority with respect to the selection, tenure of office or compensation of any individual employed in accordance with such methods.

Subpart D—Functions and Responsibilities of the State Agency Under the State Plan

§ 903.47 Statewide planning, coordination, administration, and evaluation.

In addition to the responsibilities of the State agency as prescribed in § 903.13, the State plan shall provide that the State agency shall:

(a) Carry out ongoing planning, coordination, administration, and evaluation activities necessary to implementation of the title III program; and

(b) Provide an ongoing program of technical assistance to the designated area agencies in the development and implementation of the area plans on aging.

§ 903.48 Planning.

(a) The State plan shall provide that the State agency shall carry out those activities necessary for effective planning on behalf of all older persons in the State, including:

(1) Establishment of specific goals and measurable objectives in aging related to the purposes of the Act, and the goals established by the Commissioner;

(2) Conduct of special studies related to the needs of the elderly;

(3) Conduct of issue analyses in areas of special concern to the elderly; and

(4) Data gathering and analysis on the needs of the elderly in keeping with paragraph (c) of this section;

(c) The State plan shall provide that the State agency shall undertake or arrange for the regular collection of data on the needs of the elderly throughout the State, in consultation with the National Clearinghouse on Aging. The data collected shall include such areas of need as:

(1) Income;
(2) Physical and mental health;
(3) Housing;
(4) Employment;
(5) Nutrition;
(6) Social services;
(7) Transportation; and
(8) Any other subject area deemed appropriate by the State agency.

The data collected must identify the location, special needs and living conditions of those older persons found to be in greatest need in the state for the purpose of determining the population of older persons that will be given priority in the utilization of the funds available under this part. In this effort, special attention shall be given to the needs of low income and minority older persons in the State. The State agency shall take such steps as are necessary to move toward the development of a system that will provide for the systematic storage, retrieval, and analysis, of such data, and other data made available from the Administration of Aging, and for the dissemination of such data to other public and private agencies and organizations having programs affecting the elderly in the State, and the public at large.

§ 903.49 Coordination and linkage of programs.

(a) The State plan shall provide that the State agency will establish such procedures and mechanisms that are necessary to assure the effective linkage and coordination of all State planning and service activities and programs related to the purposes of the Act. To this end, the State agency will seek to develop and maintain effective working relationships with those public and private agencies having programs which affect the elderly, including the following activities:

(1) Dissemination of information on the needs of the elderly;

(2) Joint funding and programming to achieve the objectives established in the State plan to the maximum extent feasible;

(3) Development of interagency actions concerning State and area plans and objectives, and assessment of progress and problems in implementation of the plans; and

(4) Reporting of activities on aging under this program throughout the State;

(b) The State plan shall provide for the furnishing of technical assistance to public and private agencies and organizations engaged in activities relating to the needs of older persons.

(c) The State plan shall provide that the State agency shall enter into agreements with appropriate State or, until such time as area plans are submitted and approved, local public or private agencies and organizations, for joint utilization of their services and facilities in the administration of the plan and in the development of programs and activities for carrying out the purposes of the Act.

(1) The State plan shall provide that the State agency will carry out those programs and activities designed to bring about maximum possible coordination between the resources available under titles I, X, XIV and XVI of the Social Security Act, and title VI, added by the Social Security Amendments of 1972, and the operation of the programs under this part. The State plan shall describe the activities to be undertaken by the State agency to accomplish such coordination.

(2) The State plan shall provide that the State agency, in conjunction with the designated area agencies, shall take the initiative in endeavoring to work out arrangements whereby recipients of grants or contracts for nutrition projects under § 909 of this chapter, mutually agree with area agencies, that such nutrition projects shall be made part of the comprehensive and coordinated service system for older persons under title III.

§ 903.50 Administration.

(a) *Training and manpower development.*—(1) The State plan shall provide for the initiation of a program designed to achieve the objective of a training and staff development program concerning the implementation of the Act, for all professional staff of State and area agencies and principal staff of all service programs initiated under this part. All expenditures of Federal resources under section 301(a)(1) of the Act for training shall be consistent with such program.

(2) The State plan shall provide that personnel working on Older Americans Act programs at the State and area levels will attend such training programs that are specifically developed for such individuals by the Administration on Aging at designated training centers, and that in all title III awards, the State agency will assure that adequate funds are budgeted to pay the travel, per-diem and tuition costs of such individuals at attend such training.

(b) *Participation of Older Americans in implementation of the State plan.*—The State plan shall provide that procedures will be developed by the State agency that will assure effective participation of actual or potential consumers of services under this program in the implementation of the State plan at the State and local levels. These procedures shall provide for periodic public hearings on concerns of the elderly in the State with adequate public notice for such hearings.

(c) *Advisory committee.*—The State plan shall provide for the establishment of an advisory committee to the single organizational unit on the implementation of the State plan. At least one-half of the membership of such committee shall consist of actual consumers of services under this program, including low income, and minority older persons, at least in proportion to the number of minority older persons in the State, with the remainder being broadly representative of major public and private agencies and organization in the State who are experienced in or have demonstrated particular interest in the special needs of the elderly. This committee shall meet at least quarterly.

(d) *Public information.*—(1) The State plan shall provide for a continuing program of public information specifically designed to assure that information about the programs and activities carried out under this part are effectively and appropriately promulgated throughout the State.

(2) The State plan shall provide that the State agency will pursue a policy of freedom of information and that the State plan, approved title III program applications, all periodic reports made by the State agency to the Commissioner in accord with paragraph (g) of this section, and all Federal and State policies governing the administration of the title III program in the State will be available at reasonable times and places in the offices of the State agency for review upon request by interested persons including representatives of the media.

(e) *Review and comment on applications.*—The State plan shall provide that the State agency will review and comment on, at the request of any Fed-

eral department or agency, any application from any agency or organization within such State to such Federal department or agency for assistance relating to meeting the needs of older persons.

(f) *Fiscal administration.*—The State plan shall provide for such accounting systems and procedures as are needed to control and support all fiscal activities under title III in accordance with guidelines issued by the Administration on Aging. The State plan shall provide for the maintenance by the State agency and all recipients of awards under this part, of such accounts and supporting documents as will serve to permit an accurate and expeditious determination to be made at any time of the status of the Federal grants, including the disposition of all monies received and the nature and amount of all charges claimed to lie against the allotments to the States.

(g) *Reports.*—The State plan shall provide that the State agency will make such reports to the Commissioner in such form and containing such information as may reasonably be necessary to enable him to perform his functions under title III of the Act, and will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

§ 903.51 Evaluation.

(a) The State plan shall provide that the State agency will conduct ongoing monitoring, assessment, and periodic evaluation (including the capturing and recording of information relative to changes in public and private organizations in the field of aging and changes in the lives of older persons), of activities and projects carried out under the State plan, in accordance with criteria established by the Commissioner against national and State goals. The operations of the area agency on aging, and the total program of each planning and service area for which an area plan is developed, and each title III project outside such areas, shall be evaluated on-site by the State agency at least annually prior to the funding anniversary of such programs. The results of these evaluations shall be in writing, and shall be submitted to the Commissioner.

(b) The State plan shall provide that the State agency will evaluate on an ongoing basis the extent to which existing public and private programs in the State meet the needs of older persons, especially those older persons who will be given priority in the implementation of the programs under this part. As part of this responsibility, the State agency shall undertake an analysis of the services and resources available for serving older person in the State. The data resulting from such analysis shall be updated at least on an annual basis, and shall be submitted to the Commissioner.

(c) The State plan shall provide that the State agency and all recipients of awards under this part will cooperate in the carrying out of evaluations of the title III program by the Administration on Aging or those organizations having contracts with the Administration on Aging for such purposes.

§ 903.52 Establishment and maintenance of information and referral sources.

The State plan shall provide that the State agency will work toward establishing and maintaining information and referral sources in sufficient numbers, which will seek to achieve linkages with other information and referral sources in the State capable of serving the elderly, so as to assure that all older persons in the State who are not furnished adequate information and referral services under plans developed by area agencies will have reasonably convenient access to information normally available through such sources.

§ 903.53 Direct provision of social services by the State agency.

The State plan shall provide that no social service will be provided directly by the State agency, except where, in the judgment of the State agency, based on an assessment of needs of older persons and the resources available to meet such needs, provision of such service by the State agency is necessary to assure an adequate supply of such service and that no other agency in the State could effectively deliver such service. All such cases in which the State agency anticipates providing social services directly shall be identified in the State plan. This provision does not apply when the State agency designates a single planning and service area under § 903.57(f).

§ 903.54 Demonstration projects of Statewide significance.

(a) The State agency is authorized to carry out demonstration projects of Statewide significance relating to the initiation, expansion, or improvement of social services in relation to the purposes of this part. The State plan shall identify the demonstration projects proposed for funding during a fiscal year, the objectives of the projects, the projected impact or significance of the projects, the cost projections related to the projects, and the method by which the projects will be evaluated. The approval of all such demonstration projects shall be in the form of approval of the State plan each year. Such demonstration projects, as approved, shall be financed with funds made available under § 903.110 of this part and shall be subject to the cost sharing requirements for such funds.

(b) The State agency shall evaluate such projects at least annually in accordance with the method specified in the State plan. The results of these evaluations shall be submitted to the Commissioner.

Subpart E—Designation of Planning and Service Areas by the State Agency

§ 903.57 Designation of planning and service areas.

(a) The State plan shall provide that in order to carry out the purposes of this program, the State agency shall divide the entire State, after taking into consideration the provisions of paragraphs (b) through (e) of this section, into distinct multicounty, county, Metropolitan or city areas called planning and service areas. Wherever possible, an Indian reservation shall be designated as a distinct planning and service area.

(b) The State plan shall provide that in determining the boundaries of planning and service areas in the State, the State agency shall consider those factors, including those set forth under paragraphs (c) through (e) of this section, that will most significantly contribute toward the achievement of the purposes of title III, including:

(1) The boundaries of existing areas within the State which were drawn for the planning or admistration of planning or social service programs;

(2) The location of units of general purpose local government within the State;

(3) The geographical distribution of individuals aged sixty and older in the State;

(4) The incidence of need for social services as determined by the data on the needs of the elderly collected by the State agency (including the numbers of low income and minority older persons residing in such areas); and

(5) The distribution of resources available to provide social services.

(c) The State plan shall provide that in every case, in determining the boundaries for planning and service areas, the State agency shall designate as a planning and service area, any unit of general purpose local government which has a population aged sixty or over of fifty thousand or more, or which contains 15 percent or more of the State's population aged sixty or over, except that the State agency may designate as a planning and service area, any region within the State recognized for purposes of areawide planning which includes one or more such units of general purpose local government when the State determines that the designation of such a regional planning and service area is necessary for, and will enhance the effective administration of the program authorized by this title.

(d) The State plan shall provide that the State agency may include in any planning and service area designated pursuant to the provisions of paragraph (c) of this section such additional areas adjacent to the unit of general purpose local government or region so designated as the State determines to be necessary for, and will enhance, the effective administration of programs authorized by this title.

(e) The State plan shall provide that in addition to paragraphs (b) through (d) of this section, and in order to avoid creating sub-State boundaries solely for the purposes of title III, the State agency shall conform to the boundaries of those planning and development districts or regions established by the State in accordance with the provisions of Part IV, 2. of Office of Management and Budget Circular A-95 (issued pursuant to the In-

tergovernmental Cooperation Act of 1968), or under the Comprehensive Planning Assistance program authorized by section 701 of the Housing Act of 1954, as amended (40 U.S.C. 461), or under the Areawide Health Planning Project Grant program authorized under section 314(b) of the Public Health Service Act (42 U.S.C. 246(b)).

(f) (1) The State agency may, with the approval of the Commissioner, designate all or substantially all of the State as a single planning and service area covering all or substantially all of the older persons in the State. The Commissioner's approval will be in the form of approval of the State plan each year;

(2) In considering a State's proposal, the Commissioner will consider these factors:

(i) Is the State too small to be divided effectively?

(ii) Is the size and distribution of the elderly population such that division of the State would spread coordination and management resources too thinly to be effective?

(iii) Is the State agency capable of performing area agency functions for the entire State?

(iv) Has the State constituted the entire State as one area for other planning or social service administration purposes?

(3) With the approval of such designation, the single organizational unit of the sole State agency shall be considered the area agency for such area, and shall assume all the functions and responsibilities as prescribed for the area agency in this part. In all such cases, the area plan shall be submitted each fiscal year to the Commissioner for review and approval prior to the obligation of funds, by the State agency for the implementation for such plan.

(g) The boundaries of the planning and service areas determined by the State agency shall be identified in the State plan. The State plan shall include a certification that the proposed boundaries of the planning and service areas have been cleared through the clearinghouse process established in accordance with Office of Management and Budget Circular A-95. The State plan shall include a statement of the rationale for the manner in which the State has been divided.

§ 903.58 Determination of planning and service areas for which an area agency on aging will be designated and for which an area plan will be developed.

(a) The State plan shall provide that for the first year of implementation of the program under this part, the planning and service areas for which an area agency will be designated and for which an area plan will be developed shall encompass not less than 60 percent of the total population of persons aged 60 or over in the State. The Commissioner may approve a State plan providing for coverage of less than 60 percent if the State agency can show that:

(1) The allotment available to such State for the purposes of this title is insufficient to meet this objective;

(2) The application of such requirement will result in serious barriers to achievement of the goals and objectives of this part; and

(3) Such requirement would cause undue difficulties in implementing the title III program because of the size and distribution of the elderly population in the State.

(b) The State plan shall provide that in determining the planning and service areas for which area agencies will be designated and area plans will be developed, or which will continue to receive funds under this part, the State agency shall give priority to those areas having significant concentrations or proportions of low income and minority older persons 60 years of age or older.

(c) The State plan shall describe how the State agency determined the areas for which plans will be developed and/or the areas for which plans have already been developed and approved by the State agency.

Subpart F—Designation of Area Agencies by the State Agency

§ 903.63 Designation of area agencies on aging.

(a) The State plan shall provide that following the determination of planning and service areas for which area plans will be developed, and prior to the obligation of funds to such areas to carry out the purposes of this part, the State agency shall designate a single public or non-profit private agency or organization as the area agency on aging.

(b) The State plan shall provide that the State agency shall establish procedures for considering views, with respect to the designation of the area agency on aging, offered by units of general purpose local government in the planning and service area.

(c) The State plan shall provide that for an agency or organization to be designated as an area agency on aging, it must be:

(1) An established office of aging which is operating within a designated planning and service area; or

(2) Any office or agency of a unit of general purpose local government which is designated for this purpose by the chief elected official or officials of such unit; or

(3) Any office or agency designated by the chief elected official or officials of a combination of units of general purpose local government to act on behalf of such combination for this purpose; or

(4) Any public or nonprofit private agency in a planning and service area which is under the supervision or direction for this purpose of the designated State agency and which can engage in the planning, coordination or provision of a broad range of social services, within such planning and service area.

(d) The State agency or any regional unit thereof shall not be eligible to be designated as an area agency on aging, except as provided in § 903.57(f). In addition, no other agency of the State or regional unit thereof shall be eligible to be so designated.

(e) The State plan shall provide that in designating an area agency on aging, the State agency shall give preference to an established office on aging, unless the State agency finds that no such office within the planning and service area will have the capacity to develop and carry out the area plan and the functions prescribed in § 903.66.

(f) The State plan shall provide that when in accordance with § 903.57 (a), the planning and service area boundaries are essentially coterminous with those of an Indian reservation, the tribal organization of that reservation shall be designated as the area agency, unless it is determined by the State agency that such Organization does not have the capacity to carry out the area plan.

(g) The State plan shall provide that, before an agency may be designated as an area agency on aging, the State agency must obtain adequate assurances that the agency will have the authority and capacity to develop an area plan, and to carry out, directly or through contractual or other arrangements, a program pursuant to the plan within the planning and service area.

§ 903.64 Organization of the area agency.

If the area agency designated by the State agency in accordance with § 903.63 has responsibilities that go beyond programs for the elderly, there must be created within such agency a single organizational unit with delegated authority for, and whose principal function shall be, the effective implementation of the program described in this part. It shall be the responsibility of this unit to carry out directly all of the functions and responsibilities prescribed in this part for the area agency.

§ 903.65 Staffing of the area agency.

(a) The area plan developed by the area agency shall contain a staffing plan for the area agency which sets forth the number, type of personnel employed and the timetable for the hiring of staff to carry out the functions and responsibilities of the area agency on aging. Such plan must provide that the area agency, or unit within such agency responsible for this program will:

(1) Be headed by an individual qualified by education or experience, working full-time, solely on the implementation of the area plan on aging under this program; and

(2) Provide for adequate numbers of additional qualified staff working full or part-time, including members of minority groups, for the development and implementation of the plan and the conduct of functions prescribed in this part for such agency.

(b) Once the staffing plan of the area agency has been approved by the State agency, such plan must be adhered to in all personnel actions taken by the area agency.

(c) The State plan shall provide that, subject to the requirements of merit employment systems of local government, preference shall be given to persons

aged sixty or over for any paid staff positions (full-time or part-time) in the area agency for which such persons qualify.

§ 903.66 Functions and responsibilities of the area agency.

(a) The State plan shall provide that each area agency on aging shall develop, and submit annually to the State agency for approval, an area plan on aging that conforms to the provisions of §§ 903.78 and 903.79, designed to develop comprehensive and coordinated programs for older persons throughout the planning and service area.

(b) In addition to the development and administration of an area plan on aging, an area agency shall directly carry out, to the maximum extent feasible, the following functions:

(1) Provision of leadership and advocacy on behalf of all older persons within the geographic area for which the agency is responsible;

(2) Determination of the need for social services in the planning and service area, with special emphasis on the needs of low income and minority elderly;

(3) An inventory of the resources available within the area to meet the needs of the elderly and an evaluation of the effectiveness of the services provided by the public and private agencies within the area in meeting such needs;

(4) Establishment of measurable program objectives and priorities for implementation of the area plan, in keeping with the goals and objectives established by the State agency;

(5) Planning with existing planning agencies and the providers of services in the area concerning the needs of the elderly;

(6) Either directly or through contract or grant, provide for an action program designed to:

(i) coordinate the delivery of existing services for the elderly; and

(ii) pool untapped resources of public and private agencies in order to strengthen or inaugurate new services for older persons;

(7) Periodic evaluation of the impact of activities carried out pursuant to the area plan, including the views of older persons participating in such activities;

(8) Conduct of periodic public hearings concerning the needs of the elderly;

(9) Collection and dissemination of information concerning the needs of the elderly;

(10) Provision of technical assistance to providers of social services in the planning and service area covered by the area plan;

(11) Where necessary and feasible, enter into arrangements, consistent with the provisions of the area plan, under which funds under this title may be used to provide legal services to older persons in the planning and service area, carried out through Federally assisted programs or other public or nonprofit agencies;

(12) Where possible, enter into arrangements with organizations providing day care services for children so as to provide opportunities for older persons to aid or assist, on a voluntary or paid basis, in the delivery of such services to children;

(13) Establish an advisory council which shall meet at least once each month. The council shall consist of representatives of program participants and the general public, including low income and older minority persons at least in proportion to the number of minority older persons in the area, and shall advise the area agency on all matters relating to development and administration of the area plan and operations conducted thereunder. At least one-half of the membership of such council shall be made up of actual consumers of services under the area plan. Where a nutrition project established under § 909 of this chapter is located within the planning and service area for which an area plan is to be developed, the director of such project shall also be included on the advisory council. Where more than one nutrition project is located within such planning and service area, the directors of such projects shall designate one of their number to represent all the nutrition projects of the area on the Advisory Council; and

(14) Take into account, in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under the area plan.

§ 903.67 Direct provision of social services by the area agency.

(a) The State plan shall provide that no social service under this part will be provided directly by the area agency, except where the State agency has granted specific approval to the area agency to do so. With the exception of information and referral services and coordination activities, no such approval may be given by the State agency unless the agency designated was providing social services prior to its designation as an area agency, or it can be clearly shown that the direct delivery of a service is necessary to assure an adequate supply of such services, and that no other agency in the area can or will effectively deliver such service.

(b) The approval for the area agency to deliver a social service directly shall be in the form of approval of the area plan on aging by the State agency.

§ 903.68 Public information.

(1) The area agency shall provide for a continuing program of public information specifically designed to assure that information about the programs and activities carried out under the area plan are effectively and appropriately promulgated throughout the planning and service area;

(2) The area agency shall pursue a policy of freedom of information. The area plan, all periodic reports made by the area agency to the State agency, and all Federal and State policies governing the administration of the title III program in the area will be available at reasonable times and places in the offices of the area agency for review upon request by interested persons, including representatives of the media.

Subpart G—Area Plans on Aging

§ 903.78 Development of the area plan.

(a) In accordance with guidelines established by the Commissioner regarding the content and format of the area plan, the area agency designated in accordance with § 903.63 shall develop and submit, on an annual basis, an area plan on aging to the State agency for approval. This plan must set forth in detail how the area agency proposes to develop a comprehensive and coordinated system for the delivery of social services to the elderly.

(b) The State plan shall set forth the criteria established by the State agency for determining whether an area plan as submitted by an area agency meets all of the requirements of the Act and this part. Any area plan which fails to meet such criteria shall not be approved.

(c) The area plan shall contain an assurance that the area agency designated has the authority and capacity to carry out directly all of the functions and responsibilities prescribed in § 903.66.

(d) The area plan shall provide that the area agency, in conjunction with the State agency, shall take the initiative in endeavoring to develop arrangements with recipients of grants or contracts for nutrition projects under Part 909 of this chapter whereby, subject to mutual agreement of both parties, such projects shall be made part of the coordinated and comprehensive system of services for older persons to be established under the area plan.

(e) The area plan shall provide assurances for maximum coordination between the programs and activities under the area plan, and the resources available under titles I, X, XIV, and XVI of the Social Security Act and title VI added by the Social Security Amendments of 1972 in order to achieve comprehensive and coordinated service programs for older persons as prescribed in this part.

§ 903.79 Conditions for approval of an area plan by the State agency.

(a) In order to be approved for the award of funds under this part by the State agency, the area plan must provide for:

(1) A continuous process of planning by the area agency, including the defining and redefining of objectives and the establishment of priorities; and

(2) The launching or strengthening of action programs within the area for coordinating the delivery of existing services for older persons, and for the pooling of untapped resources in order to strengthen existing services or inaugurate new services for older persons. Such activities may be carried out directly by the area agency, by a grant from the area agency to a public or nonprofit private agency, or through a contract between the area agency and a public or private agency in the planning and service area, and are subject to the provisions of § 903.83(c).

(3) The activities under paragraph (a) (1) and (2) of this section shall be carried out throughout the designated planning and service area in accordance with criteria established by the Commissioner.

(b) After the area agency has met the requirements of paragraph (a) of this section, a State agency may award funds to include as part of the area plan, support for those service programs found necessary to assist older persons to become aware of the social services available in the area (information and referral and outreach services), and to assist them in having access to these services (transportation and escort services).

(c) After the area agency has met the requirements of paragraph (a) of this section, and the services in paragraph (b) of this section have been made available to older persons in the planning and service area, a State agency may award funds to include as part of the area plan support for other social services needed by older persons, but which no public and private agencies of the area can or will provide. Only those services defined in § 903.2(g) (6) through (12) may be supported with funds made available under this part.

(d) In all cases, the area plan shall provide that priority be given to those activities and services which will assist and benefit low income and minority older persons throughout the planning and service area, and shall assure, to the extent feasible, and with respect to resources made available under the plan, low income and minority individuals will be served at least in proportion to their relative numbers in the planning and service area.

§ 903.80 Implementation of the area plan.

(a) Pursuant to its approval of the area plan, the State agency shall award all funds under this part to support implementation of the plan only to the designated area agency.

(b) With the exception of coordination and information and referral services which may be provided directly by the area agency subject to approval by the State agency and the conditions prescribed in § 903.67, the area agency shall enter into contracts on grants with other agencies providing services within the planning and service area for the actual delivery of those social services for which funds may be made available under the area plan. The area agency may contract with public or private nonprofit agencies or organizations, or profit-making organizations, for such purposes.

(c) The area plan shall provide for contracts or grants under the area plan to be operated by minority individuals, at least in proportion to their relative number in the planning and service area.

(d) It shall be the responsibility of the area agency to:

(1) Monitor on an ongoing basis the performance of the contracting agencies and grantees under the area plan, and ensure that funds made available by the State agency are expended in keeping with the purposes for which they were awarded; and

(2) Conduct periodic evaluations of the activities conducted under the area plan.

§ 903.81 Training of personnel engaged in implementation of the area plan.

The area agency shall make provision for the training of personnel necessary for implementation of the area plan, and the attendance of such individuals at designated training centers established by the Administration on Aging for individuals having specific responsibilities under the area plan.

§ 903.82 Establishment and maintenance of information and referral sources.

(a) The area plan shall provide that the area agency will take such steps as are designed to achieve the establishment or maintenance of information and referral sources in sufficient numbers to assure that all older persons within the planning and service area covered by the plan will have reasonable convenient access to such sources.

(b) Such information and referral sources shall be established or maintained in close coordination with the information and referral services which are available through the District Offices of the Social Security Administration of the Department. To the maximum extent possible, the services and resources available through such offices shall be utilized by the area agency for this purpose.

§ 903.83 Federal financial participation in activities under an area plan.

(a) Federal funds under this part may be used to pay up to 75 percent of the cost of the development and administration of the area plan on aging by the area agency and the conduct of the functions of such agency as prescribed in this part.

(b) Following the designation of an area agency, and prior to the submittal of an area plan, the State agency may make a one-time award of funds, subject to the provisions of paragraph (a) of this section, to the designated area agency for the development of the area plan to be submitted to the State agency for approval. Such an award may not be for a period in excess of six months.

(c) Funds under this part may not be awarded to carry out any of the activities prescribed in § 903.79 of this subpart until the area plan has been approved by the State agency. Once a plan has been approved, Federal funds may be used to pay up to 90 percent of the cost of the activities approved under the area plan.

§ 903.84 Duration of Federal support for activities under an area plan.

(a) The State agency shall approve an area plan for a maximum of one year. Funds provided under § 903.83(b) shall not be considered part of the first year of support. Prior to annual refunding of an area plan, the State agency must conduct an annual on-site evaluation of the area program. The State agency may approve refunding of the area plan, in whole or in part, when such evaluation demonstrates that:

(1) Substantial progress has been made in achieving the objectives of the area plan; and

(2) Substantial efforts have been made to attract financial resources from other public and private sources for the support and continuation of programs under the area plan.

(b) In keeping with paragraph (a) of this section, contracts made by area agencies with public or private nonprofit agencies or organizations or profitmaking organizations to conduct activities under the area plan, shall be limited to one year. Renewal of such contracts shall be limited to a maximum of one year at a time, and shall be subject to the final action taken by the State agency on refunding the area plan as a result of its program evaluation.

(c) Refunding of any social services under the area plan beyond three years must be approved by the Commissioner. Such approval will be granted only when it can be shown that substantial efforts have been made by the area agency to attract resources for such social services from public and private agencies, and that the support requested will not be available from such sources in the forseeable future.

Subpart H—Activities and Services Not Under Area Plans on Aging

§ 903.94 Purposes for which awards may be made.

(a) The State plan shall provide that funds may be awarded by the State agency to projects not under area plans only when such projects will contribute directly toward achieving the purposes of title III set forth in § 903.1 of this part.

(b) Initiation of any social services under this subpart as defined in § 903.2 (g) shall be permitted only when all older persons living in areas not covered by area plans have reasonably convenient access to information and referral services as defined in § 903.2(g)(2).

§ 903.95 Eligibility of applicants.

Only public or nonprofit private agencies are eligible for awards under this subpart.

§ 903.96 Approval of awards.

(a) The State plan shall provide that the State agency shall assure that each proposal to be considered for approval under § 903.94 must:

(1) Be submitted for comment to the local office on aging (if any) having jurisdiction over the geographic area from which the proposal is submitted;

(2) Be submitted for comment through the clearinghouse process established under the Office of Management and Budget Circular A-59.

(3) Have clearly specified objectives that are in keeping with the priorities established under § 903.94; and

(4) Be designed to serve primarily low income and minority older persons.

(b) The State plan shall provide that awards under this subpart will be approved initially for a maximum of 1 year. Before additional support is awarded for any subsequent year, the State agency must conduct an on-site evaluation of the project to determine if the objectives of the project are being met. The evaluation findings shall be submitted to the Commissioner.

(c) The State agency shall assure that only those projects which are making substantial progress toward achieving the objectives for which they were approved will be considered for refunding for any subsequent project year under this subpart.

§ 903.97 Federal financial participation.

(a) Federal funds under this subpart may be used to pay not more than 75 percent of the cost of activities and services under this subpart.

(b) Sponsors of existing projects must maintain the level of their non-Federal share in accordance with the requirements of § 903.138 of this part.

(c) Financial support may continue for activities under this subpart for as long as the State agency determines that such activities are effectively meeting the needs for which such award was made, and the purposes of title III, or until such activity is incorporated under an area plan.

Subpart I—Authorization and Allotments for Planning, Coordination, Administration, and Evaluation of State Plans

§ 903.107 Authorizations.

Amounts appropriated as authorized by section 303 of the Act may be used to make grants to States for paying such percentages as each State agency determines, but not more than 75 percentum, of the cost of the administration of its State plan, including the administration of the State plan amendment relating to title VII of the Act, incurred during the fiscal year for which such sums are appropriated, including the preparation of the State plan, the evaluation of activities carried out under such plan, the collection of data and the carrying out of the analysis related to the need for social services within the State, the dissemination of information so obtained, the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this Act, and the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of social services.

§ 903.108 Use of State planning funds for administering area plans.

Any sum allotted to a State under section 306 of the Act for covering part of the cost of the administration of its State plan which the State determines is not needed for such purpose may be used, as approved by the Commissioner, by such State to supplement the amount available under section 303(e)(1) to cover part of the cost of the administration of area plans. Approval by the Commissioner for the use of such funds in this manner will be in the form of approval of the State plan each fiscal year.

§ 903.109 Use of area planning monies on a statewide basis.

Any State which has designated a single planning and service area pursuant to § 90357(f), may elect to pay part of the costs of the administration of State and area plans either out of sums allotted under this part or out of sums made available for administration of area plans pursuant to § 903.123, but shall not pay such costs out of sums allotted under both such sections.

§ 903.110 Allotments to the State for planning, coordination, administration, and evaluation of State plans.

Federal funds appropriated under section 306 of the Act for any fiscal year shall be allotted among the States in the following manner:

(a) From the sums appropriated for any fiscal year under section 303 for carrying out the purposes of this subpart, each State shall be allotted an amount which bears the same ratio to such sum as the population aged sixty or over in all States, except that:

(1) No State shall be allotted less than one-half of 1 percent of the sum appropriated for the fiscal year for which the determination is made, or $160,000, whichever is greater, and

(2) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted not less than one-fourth of 1 percent of the sum appropriated for the fiscal year for which the determination is made, or $50,000 whichever is greater. For the purpose of the exception contained in clause (1) of this paragraph, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) The number of persons aged sixty or over in any State and in all States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

§ 903.111 Reallotment of funds for planning, coordination, administration, and evaluation of State plans.

The amount of any State's allotment under § 903.110 for any fiscal year which the Commissioner determines will not be required for that year shall be reallotted, from time to time and on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under § 903.110 of this subpart for that year, but such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Such reallotments shall be made on the basis of the State plan so approved, after taking into consideration the population aged sixty or over. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under § 903.110 for that year.

§ 903.112 Reduction in allotment amounts.

A State's allotment under section 303 for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 305 are less than its expenditures from such sources for the preceding fiscal year.

Subpart J—Authorization and Allotments for Area Planning and Social Services Programs

§ 903.122 Authorizations.

Amount appropriated as authorized may be used to make grants to each State with a State plan approved under section 305 of the Act (except as provided in section 307 of the Act) for paying part of the cost incurred during the fiscal year for which such sums are appropriated for the purposes of:

(a) The development and administration of area plans by area agencies on aging;

(b) The development of comprehensive and coordinated systems for the delivery of social services under area plans; and

(c) Activities and services not under area plans.

§ 903.123 Allotments for area agencies and social services.

(a) From the sums appropriated for a fiscal year each State shall be allotted an amount which bears the same ratio to such sum as the population aged sixty or over in such State bears to the population aged sixty or over in all States, except that:

(1) No State shall be allotted less than one-half of 1 percent of the sum appropriated for the fiscal year for which the determination is made;

(2) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted no less than one-fourth of 1 percent of the sum appropriated for the fiscal year for which the determination is made; and

(3) No State shall be allotted an amount less than that State received for the fiscal year ending June 30, 1973. For the purpose of the exception contained in clause (1) above, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) The number of persons aged sixty or over in any State and in all States shall be determined by the Commissioner on the basis of the most recent and satisfactory data available to him.

§ 903.124 Limitations on awards.

(a) From a State's allotment for a fiscal year under section 303 of the Act, such amount as the State agency determines, but not more than 15 percent thereof, shall be available to pay part of

the costs of the development and administration of area plans;

(b) For the fiscal year beginning July 1, 1974 and for each fiscal year thereafter, not more than 20 percent of a State's allotment under section 303 of the Act, may be used to pay part of the costs of activities and services in areas not under an approved area plan developed by an area agency and approved by the State agency.

§ 903.125 Reallotment of funds for area agencies and social services.

Whenever the Commissioner determines that any amount allotted to a State for a fiscal year under § 903.123 of this subpart will not be used by such State to carry out the purpose for which the allotment was made, he shall make such amount available for carrying out such purpose to one or more other States to the extent he determines such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year pursuant to the preceding sentence shall, for purposes of this part, be regarded as part of such State's allotment (as determined under the preceding provisions of this section) for such year.

Subpart K—General

§ 903.135 Public funds as part of the non-Federal share.

For fiscal year 1975, and for each fiscal year thereafter, not less than 25 percent of the non-Federal share of the total expenditures under the State plan shall be met from funds from State or local public sources.

§ 903.136 Payments.

Payments of grants or contracts under this part may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine.

§ 903.137 Audit.

All fiscal transactions by the State agency, any other agency (if any) administering part of the plan, and any project grantee under title III of the Act, are subject to audit by the Department to determine whether expenditures have been made in accordance with the Act and this part.

§ 903.138 Maintenance of effort.

(a) A State's allotment under section 303 of the Act for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 305 of the Act are less than its expenditures from such sources for the preceding fiscal year.

(b) The State plan shall provide reasonable assurance by the State agency that there will be expended by each recipient of an award under this part, for the purposes for which payments are made for activities under this part, for the year for which such payments are made and from funds from non-Federal resources, an amount not less than the amount expended for such purposes from such funds during the previous year.

§ 903.139 Confidentiality.

(a) The State plan shall provide that the State agency will take steps to insure that no information about, or obtained from, an individual, and in possession of an agency providing services to such individual under the plan, shall be disclosed in a form identifiable with the individual without the individual's informed consent.

(b) The State plan shall provide that lists of older persons compiled pursuant to § 903.2(g)(2) shall be used solely for the purpose of providing social services, and only with the informed consent of each individual on such list.

§ 903.140 Opportunity for hearing.

(a) The State plan shall provide that any area agency on aging whose request for approval of an area plan is denied, will be afforded an opportunity for a hearing before the State agency.

(b) The State plan shall provide that any project applicant in areas not covered by an area plan, whose application for approval is denied, will be afforded an opportunity for hearing before the State agency.

§ 903.141 State licensure requirements.

The State plan shall provide that where the State or local public jurisdictions require licensure for the provision of social services, agencies providing such services under this part shall be licensed, or shall meet the requirements for licensure.

§ 903.142 Fees for social services.

(a) The State plan shall provide that agencies providing social services under this part shall provide older persons receiving such services the opportunity to pay all or part of the costs of the social services provided. Where such services are provided under an area plan, the area agency shall consult with the advisory council to the area agency regarding the proposed fees to be charged.

(b) The State plan shall provide that each individual recipient shall determine for himself what he is able to contribute toward the cost of the social service. No older person shall be denied a social service because of his failure to pay all or part of the cost of such service.

(c) The State plan shall provide that the methods of receiving payments from individuals shall be handled in such a manner so as not to differentiate among individuals' payments publicly.

§ 903.143 Continuation of support for existing activities.

(a) The State agency is authorized, with the prior approval of the Commissioner, to continue Federal support for community project activities which meet the requirements of the Act, but which do not meet all of the requirements of this part, if such projects had been approved and funded prior to the effective date of these regulations.

(b) Such Federal financial assistance shall be available for not more than one year following the effective date of these regulations.

(c) A State agency request to continue such assistance shall be in writing, and shall set forth the reasons for which the State agency makes such a request, including:

(1) A showing that failure to continue support for the project would result in serious harm to the persons served, or to the effort for aging in the area of the project; and

(2) A showing that the State agency and community project have exhausted all efforts to obtain continuing financial assistance from other sources.

§ 903.144 Requests for postponement.

(a) In cases where a State agency has determined that it is unable to meet the requirements prescribed under this part, because such requirements in implementation of the title III program will place undue hardship on older persons, it may request the Commissioner to approve, for a specified period of time, not to exceed 120 days, a postponement of such requirements. This provision does not apply to the requirements of this part mandated by statute.

(b) The State agency shall submit a request for a postponement in writing to the Commissioner. The request shall state why the State agency is unable to meet the requirement, and therefore has need for a postponement; the effect of not granting a postponement on the implementation of the title III program; and what steps the State agency will take (and the time required), to meet the requirements for which postponement is requested.

(c) The Commissioner shall approve the postponement if he finds that it is needed to prevent undue hardships on older persons and that there is reasonable expectation that the State agency will be able to meet the requirements within the postponement period.

[FR 73-18646 Filed 8-31-73;8:45 am]